



State of Wisconsin
2013 - 2014 LEGISLATURE



RMR

LRB-0082/Pr P5
MGG:kjf:rs

Thurs AM PM
if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

see aff'd ✓

Regen

1 AN ACT *to repeal* 23.33 (5m) (b) 5. and 23.33 (8) (f) (title); *to renumber* 23.115
2 (2), 23.33 (4z) (a) 1., 23.33 (5m) (a), 23.33 (5m) (b) (intro.), 23.33 (5m) (b) 1. and
3 23.33 (5m) (d); *to renumber and amend* 23.115 (3), 23.33 (4z) (title), 23.33 (4z)
4 (a) 2., 23.33 (4z) (b), 23.33 (5) (d), 23.33 (5m) (title), 23.33 (5m) (b) 2., 23.33 (5m)
5 (b) 3., 23.33 (5m) (b) 4., 23.33 (5m) (b) 6., 23.33 (5m) (c) (intro.), 23.33 (5m) (c)
6 1., 23.33 (5m) (c) 2., 23.33 (5m) (c) 3., 23.33 (5m) (c) 4., 23.33 (5m) (c) 5., 23.33
7 (5m) (c) 6., 23.33 (5m) (c) 7., 23.33 (8) (e), 23.33 (8) (f) 1., 23.33 (8) (f) 2., 23.33
8 (13) (am), 23.33 (13) (cg), 23.33 (13) (f) and 23.45 (1) (d); *to amend* 20.370 (3)
9 (at), 20.370 (5) (cx), 23.09 (23) (a), 23.115 (title), 23.119 (1) (b), 23.33 (5) (title),
10 23.33 (9) (c), 23.33 (13) (a), 23.35 (1) (intro.), 23.35 (1) (a), 23.35 (1) (b), 23.35 (1)
11 (e), 23.35 (2), 23.50 (1), 23.50 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58,
12 23.62 (1) (intro.), 25.29 (1) (b), 25.40 (3) (b) 14., 30.26 (4) (title), 30.26 (4) (a)
13 (intro.), 30.26 (4) (b), 30.29 (1) (b), 46.03 (18) (f), 59.54 (14) (g), 70.11 (45m), 71.05
14 (6) (b) 44., 71.26 (1) (g), 71.45 (1) (b), 77.51 (13s), 77.73 (2), 78.01 (2) (e), 78.01
15 (2m) (f), 78.40 (1), 78.75 (1m) (a) 1., 78.75 (1m) (a) 3., 100.48 (2), 100.48 (3) (a),

1 100.48 (4) (c), 110.07 (1) (a) 1., 110.07 (3), 322.111, 341.057, 344.61 (1), 345.11
2 (1r), 346.66 (1) (c), 346.71 (1), 346.71 (2), 346.94 (1), 350.12 (3) (a) 1., 800.02 (2)
3 (b), 814.63 (3m) (a), 814.65 (4m) (a), 885.235 (1m), 885.235 (4), 895.049,
4 901.053, 938.17 (1) (intro.), 938.343 (9), 940.09 (1m) (b), 940.09 (3), 940.25 (1m)
5 (b), 940.25 (3), 973.06 (1) (j), 973.09 (2) (a) 1. d. and 973.09 (2) (a) 1. d.; and **to**
6 **create** 20.370 (1) (mw), 20.370 (3) (au), 20.370 (5) (cz), 20.370 (5) (et), 20.370
7 (5) (ev), 20.370 (5) (gs), 20.855 (4) (vm), 23.115 (2) (b), 23.119 (1) (at), 23.335,
8 23.336 (title), 23.336 (1), 23.336 (5) (d) 1., 23.45 (1) (d) 3., 25.29 (1) (dt), 78.75
9 (1m) (a) 2r., 100.48 (1) (bg), 100.48 (1) (br) and 343.05 (4) (b) 1m. of the statutes;
10 **relating to:** operation of off-highway motorcycles, granting rule-making
11 authority, providing penalties, and making appropriations.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

12 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
13 the following amounts for the purposes indicated:

2013-14

2014-15

20.370 Natural resources, department of**(1) LAND**(mw) *General program operations —**state off-highway motorcycle**projects*

SEG

A

-0-

-0-

(3) ENFORCEMENT AND SCIENCE(au) *Law enforcement — off-highway**motorcycle enforcement*

SEG

A

-0-

-0-

(5) CONSERVATION AIDS(cz) *Recreation aids — off-highway**motorcycle landowner incentive**program*

SEG

B

-0-

-0-

(et) *Enforcement aids — off-highway**motorcycle enforcement*

SEG

A

-0-

-0-

(ev) *Recreation aids — off-highway**motorcycle project aids*

SEG

C

-0-

-0-

SECTION 2. 20.370 (1) (mw) of the statutes is created to read:

20.370 (1) (mw) *General program operations — state off-highway motorcycle projects.* The amounts in the schedule from moneys received from off-highway motorcycle fees under s. 23.335 (4) and (5) for state off-highway motorcycle projects.

SECTION 3. 20.370 (3) (at) of the statutes is amended to read:

23.335 (14),

PLAIN

1 20.370 (3) (at) *Education and safety programs*. For The amounts in the
2 schedule for programs or courses of instruction under ss. 23.33 (5) (d) 23.336 (2),
3 29.591, 30.74 (1) (a) and 350.055 (1). All moneys remitted to the department under
4 ss. 23.33 (5) (d) 23.336 (2), 29.563 (12) (c) 2., 29.591 (3), 30.74 (1) (b), and 350.055 (1)
5 shall be credited to this appropriation.

6 **SECTION 4.** 20.370 (3) (au) of the statutes is created to read:

7 20.370 (3) (au) *Law enforcement — off-highway motorcycle enforcement*. The
8 amounts in the schedule from moneys received from off-highway motorcycle fees
9 under s. 23.335 (4) and (5) for state law enforcement operations related to
10 off-highway motorcycles, including actual enforcement, safety training, accident
11 reporting, and similar activities.

12 **SECTION 5.** 20.370 (5) (cx) of the statutes is amended to read:

13 20.370 (5) (cx) *Recreation aids — ~~all-terrain off-highway vehicle safety~~*
14 *program*. The amounts in the schedule for grants to organizations to assist with the
15 ~~all-terrain vehicle safety program under s. 23.33 (5m) (d)~~ under the off-highway
16 vehicle safety grant program under s. 23.336 (3).

17 **SECTION 6.** 20.370 (5) ⁽⁹⁵⁾~~(cz)~~ of the statutes is created to read:

18 20.370 (5) (cz) *Recreation aids — off-highway motorcycle landowner incentive*
19 *program*. Biennially, the amounts in the schedule from the moneys received by the
20 department under s. 23.335 (6) for incentive payments to landowners for
21 off-highway motorcycle corridors under s. 23.335 (14).

22 why
(st) **SECTION 7.** 20.370 (5) (et) of the statutes is created to read:

23 20.370 (5) (et) *Enforcement aids — off-highway motorcycle enforcement*. The
24 amounts in the schedule from moneys received from off-highway motorcycle fees
25 under s. 23.335 (4) and (5) for local law enforcement aids.

INSECT 4-16

1 *why* **SECTION 8.** 20.370 (5) (ev) of the statutes is created to read:

2 *(u)* 20.370 (5) (ev) *Recreation aids — off-highway motorcycle project aids.* As a
3 continuing appropriation, the amounts in the schedule from moneys received from
4 off-highway motorcycle fees under s. 23.335 (4) and (5) to provide aid to towns,
5 villages, cities, counties, and federal agencies for nonstate off-highway motorcycle
6 projects.

7 **SECTION 9.** 20.370 (5) (gs) of the statutes is created to read:

8 20.370 (5) (gs) *Recreation aids — off-highway motorcycle project aids; gas tax*
9 *payment.* As a continuing appropriation, an amount equal to the estimated
10 off-highway motorcycle gas tax payment to provide aid to towns, villages, cities,
11 counties, and federal agencies for nonstate off-highway motorcycle projects.

12 **SECTION 10.** 20.855 (4) (vm) of the statutes is created to read:

13 20.855 (4) (vm) *Transfer to conservation fund; off-highway motorcycle formula.*
14 From the transportation fund, a sum sufficient in an amount equal to the amount to
15 be paid into the conservation fund as determined under s. 25.29 (1) (dt). The amounts
16 may be paid at such intervals during each fiscal year as the secretary of
17 administration deems appropriate or necessary. *(g+) same as (cx)*

18 **SECTION 11.** 23.09 (23) (a) of the statutes is amended to read:

19 23.09 (23) (a) In this subsection, "approval" means any type of approval or
20 authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33
21 (2), 23.335 (3) or (5), 27.01, or 350.12, including a license, permit, certificate, stamp,
22 tag, registration, or vehicle admission receipt.

23 **SECTION 12.** 23.115 (title) of the statutes is amended to read:

24 **23.115 (title) Designation of and signage for certain trails, etc and**
25 **routes.**

1 **SECTION 13.** 23.115 (2) of the statutes is renumbered 23.115 (2) (a). e

2 **SECTION 14.** 23.115 (2) (b) of the statutes is created to read:

3 23.115 (2) (b) Paragraph (a) does not apply to off-highway vehicle trails, as
4 defined in s. 23.336 (1) (i), that are on land under the control of the department that
5 are maintained by off-highway associations, as defined in s. 23.336 (1) (d).

6 **SECTION 15.** 23.115 (3) of the statutes is renumbered 23.115 (2) (c) and amended
7 to read:

8 23.115 (2) (c) ~~Subsection (2)~~ Paragraph (a) does not apply to snowmobile trails,
9 as defined in s. 350.01 (17), that are on land under the control of the department that
10 are maintained by snowmobile clubs or other nonprofit organizations associations,
11 as defined in s. 23.336 (1) (k).

12 **SECTION 16.** 23.119 (1) (at) of the statutes is created to read:

13 23.119 (1) (at) "Off-highway motorcycle" has the meaning given in s. 23.335

14 (1) ^(p)
(1) ~~(n)~~.

15 **SECTION 17.** 23.119 (1) (b) of the statutes is amended to read:

16 23.119 (1) (b) "Off-highway vehicle" means a motor-driven craft or vehicle
17 principally manufactured for off-highway use but does not include a snowmobile, an
18 all-terrain vehicle, or utility terrain vehicle, or an off-highway motorcycle.

19 **SECTION 18.** 23.33 (4z) (title) of the statutes is renumbered 23.336 (4) (title) and
20 amended to read:

21 ³³ ~~23.336 (4)~~ (title) PUBLIC EDUCATION PROGRAM REGARDING INTOXICATED OPERATION.

22 **SECTION 19.** 23.33 (4z) (a) 1. of the statutes is renumbered 23.336 (4) (a) 1. e

23 **SECTION 20.** 23.33 (4z) (a) 2. of the statutes is renumbered 23.336 (4) (a) 2. and
24 amended to read:

1 23.336 (4) (a) 2. Provide for the development of signs briefly explaining the
2 intoxicated operation of an all-terrain vehicle or utility terrain vehicle law and the
3 intoxicated operation of an off-highway motorcycle law.

4 **SECTION 21.** 23.33 (4z) (b) of the statutes is renumbered 23.336 (4) (b) and
5 amended to read:

6 23.336 (4) (b) The department shall develop and issue an educational pamphlet
7 on the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law to
8 be distributed, ~~beginning in 1989~~, to persons issued all-terrain vehicle or utility
9 terrain vehicle registration certificates under subs. s. 23.33 (2) and or (2g) or
10 off-highway motorcycle registration certificates under s. 23.335 (3).

11 **SECTION 22.** 23.33 (5) (title) of the statutes is amended to read:

12 23.33 (5) (title) AGE RESTRICTIONS; ~~SAFETY CERTIFICATION PROGRAM.~~

13 **SECTION 23.** 23.33 (5) (d) of the statutes is renumbered 23.336 (2) and amended
14 to read:

15 23.336 (2) SAFETY CERTIFICATION PROGRAM ESTABLISHED. The department shall
16 establish or supervise the establishment of a program of instruction on all-terrain
17 ~~vehicle and utility terrain vehicle laws, including the intoxicated operation of an~~
18 ~~all-terrain vehicle or utility terrain vehicle law, regulations, safety relating to the~~
19 safe operation of off-highway vehicles and other related subjects. All or part of this
20 program may be conducted by means of online instruction. The department shall
21 establish by rule an instruction fee for this program. The department shall issue
22 certificates to persons successfully completing the program. An instructor
23 conducting the program of instruction under this ~~paragraph~~ subsection shall collect
24 the fee from each person who receives instruction. The department may determine
25 the portion of this fee, which may not exceed 50%, that the instructor may retain to

defray expenses incurred by the instructor in conducting the program. The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to the department. The department shall issue a duplicate certificate of accomplishment to a person who is entitled to a duplicate certificate of accomplishment and who pays a fee of \$2.75.

Charge component
SECTION 24. 23.33 (5m) (title) of the statutes is renumbered 23.336 (3) (title)

and amended to read:

23.33 5m
~~23.336 (3)~~ (title) SAFETY GRANT PROGRAM.

SECTION 25. 23.33 (5m) (a) of the statutes is renumbered 23.336 (3) (a).

SECTION 26. 23.33 (5m) (b) (intro.) of the statutes is renumbered 23.336 (3) (b) (intro.).

SECTION 27. 23.33 (5m) (b) 1. of the statutes is renumbered 23.336 (3) (b) 1.

SECTION 28. 23.33 (5m) (b) 2. of the statutes is renumbered 23.336 (3) (b) 2. and amended to read:

23.336 (3) (b) 2. The organization promotes the operation of all-terrain one or more types of off-highway vehicles in a manner that is safe and responsible and that does not harm the environment.

SECTION 29. 23.33 (5m) (b) 3. of the statutes is renumbered 23.336 (3) (b) 3. and amended to read:

23.336 (3) (b) 3. The organization promotes the operation of all-terrain one or more types of off-highway vehicles in a manner that does not conflict with the laws, rules, and departmental policies that relate are applicable to the operation of all-terrain those types of off-highway vehicles.

SECTION 30. 23.33 (5m) (b) 4. of the statutes is renumbered 23.336 (3) (b) 4. and amended to read:

23.336 (3) (b) 4. The interest of the organization is limited to the recreational operation of ~~all-terrain off-highway~~ vehicles on ~~all-terrain vehicle off-highway~~ routes, ~~off-highway~~ trails, and other areas that are off the highways.

SECTION 31. 23.33 (5m) (b) 5. of the statutes is repealed.

SECTION 32. 23.33 (5m) (b) 6. of the statutes is renumbered 23.336 (3) (b) 6. and amended to read:

23.336 (3) (b) 6. The organization provides support to ~~all-terrain vehicle clubs~~ off-highway associations.

SECTION 33. 23.33 (5m) (c) (intro.) of the statutes is renumbered 23.336 (3) (c)

(intro.) and amended to read:

^{23.33 5m}
~~23.336 (3)~~ (c) (intro.) An organization receiving a grant under this subsection shall use the grant moneys to promote and provide support to the safety certification program established under sub. ^{PLAIN} (5) ^(d) (2) by conducting activities that include all any of the following:

SECTION 34. 23.33 (5m) (c) 1. of the statutes is renumbered 23.336 (3) (c) 1. and amended to read:

23.336 (3) (c) 1. Collecting ~~data~~ on the recreational operation of ~~all-terrain~~ off-highway vehicles off the highways.

SECTION 35. 23.33 (5m) (c) 2. of the statutes is renumbered 23.336 (3) (c) 2. and amended to read:

^{23.33 (5m)}
~~23.336 (3)~~ (c) 2. Providing assistance to the department in locating, recruiting, and training instructors for the safety certification program established under sub. ^{PLAIN} (5) ^(d) (2).

SECTION 36. 23.33 (5m) (c) 3. of the statutes is renumbered 23.336 (3) (c) 3. and amended to read:

23.33 (5m)

1 ~~PLAW~~ 23.336 (3) (c) 3. Attempting to increase participation by current and future
2 ~~all-terrain vehicle~~ operators and owners in the safety certification program
3 established under sub. ~~(5) (d) (2)~~.

4 **SECTION 37.** 23.33 (5m) (c) 4. of the statutes is renumbered 23.336 (3) (c) 4. and
5 amended to read:

6 23.336 (3) (c) 4. ~~Assisting the department of natural resources and the~~
7 ~~department of tourism in creating an outreach program to inform local communities~~
8 ~~of appropriate all-terrain vehicle~~ what is appropriate use in their communities of the
9 types of off-highway vehicles for which the organization was formed and of the
10 economic benefits that may be gained from promoting tourism to attract ~~all-terrain~~
11 vehicle recreational operators of these vehicles.

12 **SECTION 38.** 23.33 (5m) (c) 5. of the statutes is renumbered 23.336 (3) (c) 5. and
13 amended to read:

14 23.336 (3) (c) 5. Attempting to improve and maintain ~~its~~ the organization's
15 relationship with the department of natural resources, the department of tourism,
16 ~~all-terrain off-highway associations, off-highway vehicle dealers, all-terrain~~
17 ~~off-highway vehicle manufacturers, snowmobile clubs, as defined in s. 350.138 (1)~~
18 ~~(e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other organizations~~
19 ~~that promote the recreational operation of snowmobiles and snowmobile~~
20 associations.

21 **SECTION 39.** 23.33 (5m) (c) 6. of the statutes is renumbered 23.336 (3) (c) 6. and
22 amended to read:

23 23.336 (3) (c) 6. Recruiting, assisting in the training of, and providing support
24 to a corps of volunteers that will assist in providing safety instruction ~~on the safe and~~

1 responsible operation of all-terrain vehicles that is given in the field to all-terrain
2 vehicle operators of off-highway vehicles.

3 SECTION 40. 23.33 (5m) (c) 7. of the statutes is renumbered 23.336 (3) (c) 7. and
4 amended to read:

5 23.336 (3) (c) 7. ~~Publishing~~ Assisting the department in publishing a manual
6 ~~in cooperation with the department that shall~~ that will be used to train volunteers
7 in monitoring the recreational operation of all-terrain off-highway vehicles for
8 safety issues and other issues that relate to the responsible operation of all-terrain
9 off-highway vehicles.

10 SECTION 41. 23.33 (5m) (d) of the statutes is renumbered 23.336 (3) (d).

11 SECTION 42. 23.33 (8) (e) of the statutes is renumbered 23.336 (5) (a) and
12 amended to read:

13 23.336 (5) (a) ~~Signs.~~ The department, in cooperation with the department of
14 transportation, shall establish uniform all-terrain vehicle route and trail signs and
15 standards and uniform signs and standards for the operation of utility terrain
16 off-highway vehicles on all-terrain vehicle off-highway routes and off-highway
17 trails. The standards may not require that any additional signs be placed on
18 all-terrain vehicle routes concerning the operation of all-terrain vehicles or utility
19 terrain vehicles with snow removal devices attached.

20 SECTION 43. 23.33 (8) (f) (title) of the statutes is repealed.

21 SECTION 44. 23.33 (8) (f) 1. of the statutes is renumbered 23.336 (5) (b) and
22 amended to read:

23 23.336 (5) (b) No person may intentionally remove, damage, deface, move,
24 obstruct, or interfere with the effective operation of any uniform all-terrain vehicle
25 route or trail sign or standard or any uniform sign or standard for relating to the

operation of ~~a utility terrain~~ an off-highway vehicle on an ~~all-terrain off-highway~~ vehicle route or an off-highway vehicle trail if the sign or standard is legally placed by the state, any municipality or any authorized individual.

SECTION 45. 23.33 (8) (f) 2. of the statutes is renumbered 23.336 (5) (c) and amended to read:

23.336 (5) (c) No person may possess any ~~uniform all-terrain vehicle route or trail sign or standard, or any~~ uniform sign or standard for relating to the operation of a utility terrain an off highway vehicle on an all-terrain off-highway vehicle route or an off-highway vehicle trail, of the type established by the department for the purpose of warning, instruction or information of instructing, or informing the public, unless he or she obtained the uniform sign or standard in a lawful manner. Possession of ~~a uniform all-terrain vehicle route or trail sign or standard or uniform~~ such a sign or standard for the operation of a utility terrain vehicle on an all-terrain vehicle route or trail creates a rebuttable presumption of illegal possession.

SECTION 46. 23.33 (9) (c) of the statutes is amended to read:

23.33 (9) (c) *Signs.* In addition to the projects listed in par. (b), the department may provide aid under this subsection to a town, village, city or county for up to 100% of the cost of placing signs that relate to the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law and that are developed under sub. (4z) s. 23.336 (4) (a) 2.

SECTION 47. 23.33 (13) (a) of the statutes is amended to read:

23.33 (13) (a) *Generally.* Except as provided in pars. ~~(am)~~ (ar) to (e), any person who violates this section shall forfeit not more than \$250.

SECTION 48. 23.33 (13) (am) of the statutes is renumbered 23.336 (5) (d) 2. and amended to read:

23.336 (5) (d) 2. ~~Penalty related to interference with signs and standards.~~
Except as provided in par. (cg), a ~~subd. 3.~~ sub. (8) (f) par.
(b) or (c) and who, within the last 2 years prior to the arrest for the current violation,
was 2 or more times previously convicted for violating ~~a provision of this chapter par.~~
(b) or (c) shall forfeit not more than \$500.

SECTION 49. 23.33 (13) (cg) of the statutes is renumbered 23.336 (5) (d) 3. and
amended to read:

23.336 (5) (d) 3. ~~Penalties related to causing death or injury; interference with
signs and standards.~~ A Any person who violates ~~sub. (8) (f) 1. par. (b)~~ sub. (8) (f) 1. par. (b) is guilty of a
Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b),
of another person.

SECTION 50. 23.33 (13) (f) of the statutes is renumbered 23.336 (5) (e) and amended
to read: (5) (e) par.

23.336 (5) (e) ~~Restoration or replacement of signs and standards.~~ In addition to
any other penalty imposed for a violation of sub. (5) (b), the court may order the
defendant to restore or replace any ~~uniform all-terrain vehicle route or trail sign or
standard, or any uniform sign or standard for the operation of a utility terrain vehicle
on an all-terrain vehicle route or trail~~, that the defendant removed, damaged,
defaced, moved, or obstructed.

SECTION 51. 23.335 of the statutes is created to read:

23.335 Off-highway motorcycles. (1) DEFINITIONS. In this section:

(b) ~~(a)~~ "Alcohol beverages" has the meaning specified under s. 125.02 (1). INSERT
13-21

(c) ~~(b)~~ "Alcohol concentration" has the meaning given in s. 340.01 (1v).

(d) ~~(c)~~ "Approved public treatment facility" has the meaning specified under s.
51.45 (2) (c).

() "Off-highway motorcycle" has the meaning specified under s. 13-21

1 (e) ~~(d)~~ "All-terrain vehicle route" has the meaning given in s. 23.33 (1) (c).

2 (f) ~~(e)~~ "All-terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).

3 (f) "Controlled substance" has the meaning specified under s. 961.01 (4).

4 (g) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

5 (g) ~~(h)~~ "Electric personal assistive mobility device" has the meaning given in s.
6 340.01 (15pm).

7 (h) ~~(i)~~ "Highway" has the meaning given in s. 340.01 (22).

8 (i) ~~(j)~~ "Immediate family" means persons who are related as spouses, who are
9 related as siblings, or who are related as parent and child.

10 (j) ~~(k)~~ "Intoxicant" means any alcohol beverage, controlled substance, controlled
11 substance analog, or other drug or any combination thereof.

12 (k) ~~(l)~~ "Intoxicated operation of an off-highway motorcycle law" means sub. (12)
13 (a) or (b) or a local ordinance in conformity therewith or, if the operation of an
14 off-highway motorcycle is involved, s. 940.09 or 940.25.

15 (L) ~~(m)~~ "Junked" means dismantled for parts or scrapped.

16 (n) "Land under the management and control of the person's immediate family"
17 means land owned or leased by the person or a member of the person's immediate
18 family over which the owner or lessee has management and control. This term
19 excludes land owned or leased by an organization of which the person or a member
20 of the person's immediate family is a member.

21 (m) ~~(n)~~ "Law enforcement officer" means an officer of the state traffic patrol under
22 s. 110.07 (1), inspector under s. 110.07 (3), a conservation warden appointed by the
23 department under s. 23.10, a county sheriff, or a municipal peace officer.

24 (n) ~~(o)~~ "Limited use off-highway motorcycle" means an off-highway motorcycle
25 that is not registered by the department of transportation for use on highways.

(o) ~~(a)~~ "Local governmental unit" means a city, village, town, or county.

(p) ~~(b)~~ "Off-highway motorcycle" means a ²two-wheeled motor vehicle that is straddled by the operator, that is equipped with handlebars, and that is designed for use off of a highway, regardless of whether it is also designed for use on a highway.

(r) ~~(c)~~ "Off-highway motorcycle corridor" means an off-highway motorcycle trail or other established off-highway motorcycle corridor that is open to the public for the operation of off-highway motorcycles for recreational purposes but does not include an off-highway motorcycle route.

(s) ~~(d)~~ "Off-highway motorcycle dealer" means a person who is engaged in this state in the sale of off-highway motorcycles for a profit at retail.

(u) "Off-highway motorcycle route" means a highway or sidewalk designated for recreational use by operators of off-highway motorcycles by the governmental agency having jurisdiction. ← INSERT 15-10

(v) "Off-highway motorcycle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for recreational use by operators of off-highway motorcycles by the governmental agency having jurisdiction. ← INSERT 15-15

(y) ~~(e)~~ "Operate" means to exercise physical control over the speed or direction of an off-highway motorcycle or to physically manipulate or activate any of the controls of an off-highway motorcycle necessary to put it in motion.

(z) ~~(f)~~ "Operation" means the exercise of physical control over the speed or direction of an off-highway motorcycle or the physical manipulation or activation of any of the controls of off-highway motorcycle necessary to put it in motion.

(q) "Off-highway motorcycle club" means a club consisting of individuals that promotes the recreational use of off-highway motorcycles off the highway ^{for recreational purposes} ~~the highways~~ of this state. ^{within}

1 ~~(2b)~~ ~~(2)~~ ~~(y)~~ "Operator" means a person who operates an off-highway motorcycle, who
2 is responsible for the operation of an off-highway motorcycle, or who is supervising
3 the operation of an off-highway motorcycle.

4 ~~(2c)~~ ~~(2b)~~ ~~(3)~~ "Owner" means a person who has lawful possession of an off-highway
5 motorcycle by virtue of legal title in the off-highway motorcycle which entitles the
6 person to possession of the off-highway motorcycle.

7 ~~(2d)~~ ~~(2c)~~ ~~(2b)~~ "Purpose of authorized analysis" means for the purpose of determining or
8 obtaining evidence of the presence, quantity, or concentration of any intoxicant in a
9 ^{ze} person's blood, breath, or urine.

10 ~~(2e)~~ ~~(2d)~~ ~~(2c)~~ "Refusal law" means sub. (12) (h) or a local ordinance in conformity
11 therewith.

12 ~~(2f)~~ ~~(2e)~~ ~~(2d)~~ "Registration documentation" means an off-highway motorcycle
13 registration certificate, a validated registration receipt, or a registration decal.

14 ~~(2g)~~ ~~(2f)~~ ~~(2e)~~ "Small off-highway motorcycle" means an off-highway motorcycle that
15 has either an engine certified by the manufacturer at not more than 100 cubic
16 centimeters or an equivalent power unit.

17 ~~(2h)~~ ~~(2g)~~ ~~(2f)~~ "Snowmobile" has the meaning given in s. 340.01 (58a).

18 ~~(2i)~~ ~~(2h)~~ ~~(2g)~~ "Snowmobile route" has the meaning given in s. 350.01 (16).

19 ~~(2j)~~ ~~(2i)~~ ~~(2h)~~ "Snowmobile trail" has the meaning given in s. 350.01 (17).

20 ~~(2k)~~ ~~(2j)~~ ~~(2i)~~ "Test facility" means a test facility or agency prepared to administer tests
21 under s. 343.305 (2).

22 ~~(2L)~~ ~~(2k)~~ ~~(2j)~~ "Validated registration receipt" means a receipt issued by the department
23 or an agent under sub. (4) (g) 1. a. that shows that an application and the required
24 fees for a registration certificate have been submitted to the department or an agent
25 appointed under sub. (4) (f) 2.

1 (2) REGISTRATION. (a) *Requirement.* No person may operate an off-highway
2 motorcycle for recreational purposes and no owner may give permission for the
3 operation of an off-highway motorcycle for recreational purposes off the highways
4 within this state unless the off-highway motorcycle is registered with the
5 department under this section.

6 (b) *Exemptions.* An off-highway motorcycle is exempt from the registration
7 requirement under par. (a) if any of the following applies:

8 1. The off-highway motorcycle is covered by a valid registration of a federally
9 recognized American Indian tribe or band, and all of the following apply:

10 a. The registration program of the tribe or band is covered by an agreement
11 under s. 23.35.

12 b. The off-highway motorcycle displays the registration decal required by the
13 tribe or band.

14 2. The off-highway motorcycle displays a plate or sign attached in the manner
15 authorized under sub. (5) (c). ^{as part of} ^{event}

16 3. The off-highway motorcycle ^{will be} is operated exclusively in racing on a raceway
17 facility ^{or} on a special motorcycle ^{as authorized under sub. (10)(b)} ✓

18 4. The off-highway motorcycle is present in this state, for a period not to exceed
19 15 days, and is used exclusively as part of an advertisement being made for the
20 manufacturer of the off-highway motorcycle.

21 5. The off-highway motorcycle is specified as exempt from registration by
22 department rule.

23 (3) REGISTRATION; APPLICATION PROCESS. (a) *Public or private use.* Only the
24 department may register off-highway motorcycles for recreational off-highway
25 operation. Any off-highway motorcycle may be registered for public use. Only an

off-highway motorcycle may be registered for private use
↓

← INSERT 17-22

it if a for sequential purposes or exclusively
1 ~~off-highway motorcycle that~~ will be operated exclusively by the owner of the
2 motorcycle or a member of his or her immediate family ^{only} on land owned or leased by
3 the owner or a member of his or her immediate family may be registered for private
4 use

5 (b) *Registration; sales by dealers.* If the seller of an off-highway motorcycle is
6 an off-highway motorcycle dealer, the dealer shall require each buyer to whom he
7 sells an off-highway motorcycle to complete an application for registration for public
8 or private use and collect the applicable fee required under sub. (4) (d) at the time
9 of the sale if the off-highway motorcycle will be operated off the highways ^{in this}
10 state ^{with} for recreational purposes. The department shall provide application and
11 registration receipt forms to off-highway motorcycle dealers. Each off-highway
12 motorcycle dealer shall provide the buyer a registration receipt showing that the
13 application and accompanying fee have been obtained by the off-highway motorcycle
14 dealer. The off-highway motorcycle dealer shall mail or deliver the application and
15 fee to the department no later than 7 days after the date of sale.

16 (c) *Registration; other sales.* 1. If an off-highway motorcycle is sold or
17 otherwise transferred by a person other than an off-highway motorcycle dealer and
18 is not registered with the department, the buyer or transferee shall complete an
19 application for registration for public or private use if the buyer or transferee intends
20 to operate the off-highway motorcycle off the highways ^{in this state} for recreational
21 purposes

22 (d) *Registration; action by department.* Upon receipt of an application for
23 registration of an off-highway motorcycle on a form provided by the department, the
24 payment of any applicable fees under sub. (4) (d), and of any sales or use taxes that
25 may be due, the department shall issue the a registration certificate to the applicant.

1 (e) *Transfers of registered motorcycles.* Upon transfer of ownership of an
2 off-highway motorcycle which is registered for public or private use, the transferor
3 shall deliver the registration certificate to the transferee at the time of the transfer.
4 The transferee shall complete an application for transfer on a form provided by the
5 department and shall mail or deliver the form to the department within 10 days after
6 the date of the transfer if the transferee intends to operate the off-highway
7 motorcycle off the highways in this state for recreational purposes.

8 (f) *Trades; registration required.* An off-highway motorcycle dealer may not
9 accept a limited use off-highway motorcycle in trade unless the off-highway
10 motorcycle is currently registered by the department or is exempt from being
11 registered by the department under sub. (2) (b).

12 (4) REGISTRATION; CERTIFICATES AND DECALS. (a) *Period of validity; expiration.*

13 1. A registration certificate issued under sub. (3) for public use is valid beginning on
14 April 1 or the date of issuance or renewal and ending March 31 of the 2nd year
15 following the date of issuance or renewal.

16 2. For renewals of registration certificates for public use, the department shall
17 notify each owner of the upcoming date of expiration at least 2 weeks before that date.

18 (b) *Content of certificate.* Each registration certificate shall contain the
19 registration number, the name and address of the owner, and any other information
20 that the department determines is necessary.

21 (c) *Decal required.* 1. Each registration certificate issued under sub. (3) shall
22 be accompanied by a registration decal. No person may operate an off-highway
23 motorcycle for which a registration decal is required without having the decal so
24 affixed except as provided in subd. 4.

2. The decal shall contain a reference to the state and to the department, the vehicle identification number, and the expiration date of the registration, if the off-highway motorcycle is being registered for public use.

3. The person required to register an off-highway motorcycle shall affix the registration decal with its own adhesive in a position on the exterior of the motorcycle where it is clearly visible and shall maintain the decal so that it is in legible condition.

4. A person may operate an off-highway motorcycle without having a registration decal affixed if the owner has been issued a validated registration receipt that shows that an application and the required fees for a registration certificate have been submitted to the department, and the person operating the off-highway motorcycle has the receipt in his or her possession. The person shall exhibit the receipt, upon demand, to any law enforcement officer.

(d) *Fees for certificates and decals.* 1. The fee for the issuance or renewal of a registration certificate for public use and the accompanying decal is \$30. ^{INSERT} 20-14

2. The fee for the issuance or renewal of a registration certificate for private use and the accompanying decal is \$15.

3. The fee for transferring a certificate issued under sub. (3) (e) is \$5.

(e) *Duplicate certificates and decals.* 1. If a registration certificate or decal that was issued under par. (a) or (c) is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon receipt of the application and the fee required under subd. 2., the department shall issue a duplicate certificate or decal to the applicant.

2. The fee for the issuance of a duplicate certificate for public or private use is \$5, and the fee for a duplicate decal is \$5.

1 (f) *Registration issuers.* For the issuance of original or duplicate registration
2 documentation and for the transfer or renewal of registration documentation, the
3 department may do any of the following:

4 1. Directly issue, transfer, or renew the registration documentation with or
5 without using the service specified in par. (g) 1.

6 2. Appoint persons who are not employees of the department as agents of the
7 department to issue, transfer, or renew the registration documentation using either
8 or both of the services specified in par. (g) 1.

9 (g) *Methods of issuance.* 1. For the issuance of original or duplicate registration
10 documentation and for the transfer or renewal of registration documentation, the
11 department may implement either or both of the following procedures to be provided
12 by the department and any agents appointed under par. (f) 2.:

13 a. A procedure under which the department or an agent appointed under par.
14 (f) 2. accepts applications for registration documentation and issues a validated
15 registration receipt at the time the applicant submits the application accompanied
16 by the required fees.

17 b. A procedure under which the department or agent may accept applications
18 for registration documentation and issue to each applicant all or some of the items
19 of the registration documentation at the time the applicant submits the application
20 accompanied by the required fees.

21 2. Under either procedure under subd. 1., the applicant shall receive any
22 remaining items of registration documentation directly from the department at a
23 later date. The items of registration documentation issued at the time of the
24 submittal of the application under either procedure shall be sufficient to allow the
25 vehicle for which the application is submitted to be operated in compliance with the

1 registration requirements under this subsection. The items of registration
2 documentation issued under subd. 1. b. shall include a registration decal.

3 (h) *Issuing service fees.* 1. In addition to any applicable fee under par. (d) 1.,
4 2., or 3. or (e) 2., an agent appointed under par. (f) 2. who accepts an application to
5 issue, renew, or transfer registration documentation in person and issues a validated
6 registration receipt under par. (g) 1. a. shall collect a service fee of \$3 each time the
7 agent issues the receipt. The agent shall retain the entire amount of each service fee
8 the agent collects.

9 2. In addition to any applicable fee under par. (d) 1., 2., or 3. or (e) 2., the
10 department or the agent appointed under par. (f) 2. shall collect a service fee of \$5
11 each time the service under par. (g) 1. b. is provided. The agent shall remit to the
12 department \$1 of each service fee the agent collects.

13 (i) *Junked motorcycles.* If an off-highway motorcycle is junked, the owner shall
14 return the certificate of registration to the department marked "junked."

15 (5) REGISTRATION OF OFF-HIGHWAY MOTORCYCLE DEALERS. (a) A person who is an
16 off-highway motorcycle dealer shall register with the department and obtain from
17 the department a commercial off-highway motorcycle certificate. Upon receipt of
18 the required fee under par. (e) and an application form provided by the department,
19 the department shall issue the applicant a commercial registration certificate and
20 3 accompanying decals.

21 (b) A commercial registration certificate is valid for 2 years.

22 (c) A person who is required to obtain an off-highway motorcycle certificate
23 under par. (a) shall attach in a clearly visible place a plate or sign that is removable
24 and temporarily but firmly mounted to any off-highway motorcycle that the person
25 offers for sale or otherwise allows to be used whenever the off-highway motorcycle

1 is being operated. A registration decal issued by the department shall be affixed to
2 the plate or sign.

3 (d) If a registration certificate or decal that was issued under par. (a) is lost or
4 destroyed, the holder of the certificate or decal may apply for a duplicate on a form
5 provided by the department. Upon receipt of the application and the required fee
6 under par. (e), the department shall issue a duplicate certificate or decal to the
7 applicant.

8 (e) The fee for the issuance or renewal of a commercial off-highway motorcycle
9 certificate with 3 accompanying decals is \$90. The fee for additional commercial
10 registration decals is \$30 for each decal. The fee for the issuance of a duplicate
11 commercial off-highway motorcycle certificate is \$5. The fee for each duplicate decal
12 is \$2.

13 (f) A commercial off-highway motorcycle certificate may not be transferred.

14 (6) NONRESIDENT TRAIL PASSES. (a) Except as provided in par. (b), no person may
15 operate an off-highway motorcycle on an off-highway motorcycle corridor in this
16 state unless a nonresident trail pass issued by the department under this subsection
17 is permanently affixed on the exterior of the motorcycle where it is clearly visible.

18 (b) An off-highway motorcycle that is registered under sub. (3) or that is
19 exempt from registration under sub. (2) (b) 2., 3., or 4. is exempt from having a
20 nonresident trail pass. The department may promulgate a rule to provide additional
21 exemptions from the requirement of being issued a nonresident trail pass or from
22 having to pay a fee for the pass. The department may promulgate a rule to exempt
23 off-highway motorcycles that are exempt from registration under sub. (2) (b) 5. from
24 having nonresident trail passes affixed as required under par. (a) or may promulgate

1 a rule to exempt owners of such vehicles from having to pay any applicable
2 nonresident trail pass fee.

3 (c) There is no fee for a nonresident trail pass issued for an off-highway
4 motorcycle that is registered under s. 23.35. The department or Indian tribe or band
5 shall issue a nonresident trail pass for such an off-highway motorcycle when it
6 issues the registration certificate for the motorcycle. The department shall provide
7 Indian tribes or bands that register off-highway motorcycles under s. 23.35 with a
8 supply of trail passes.

9 (d) The fee for an annual nonresident trail pass is \$34.25. The fee for a 5-day
10 nonresident trail pass is \$19.25. Annual trail passes expire on March 31 of each year.

11 (e) 1. The department may appoint any person who is not an employee of the
12 department as the department's agent to issue nonresident trail passes and collect
13 the fees for these passes.

14 2. Any person, including the department, who issues a nonresident trail pass
15 shall collect in addition to the fee under sub. (6) (d) an issuing fee of 75 cents. An
16 agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate
17 the agent for the agent's services in issuing the pass.

18 3. The department shall establish, by rule, procedures for issuing nonresident
19 trail passes, and the department may promulgate rules regulating the activities of
20 persons who are appointed to be agents under this paragraph.

21 (7) RENTAL OF LIMITED USE OFF-HIGHWAY MOTORCYCLES. (a) No person who is
22 engaged in the rental or leasing of limited use off-highway motorcycles to the public
23 may do any of the following:

24 1. Rent or lease a limited use off-highway motorcycle for operation by a person
25 who will be operating the limited use off-highway motorcycle for the first time unless

← INSERT 24-20

1 the person engaged in the rental or leasing gives the person instruction on how to
2 operate the limited use off-highway motorcycle.

3 2. Rent or lease a limited use off-highway motorcycle to a person under 12
4 years of age.

****NOTE: There is a conflict under current ATV law regarding whether a person must be 12 or 16 to lease an ATV. Compare s. 23.33 (2m) (a) 2. and (5) (a). Let me know if you want this age changed to 12.

5 3. Rent or lease a limited use off-highway motorcycle without first ascertaining
6 that any person under the age of 18 who will be on the vehicle has protective
7 headgear of the type required under s. 347.485 (1) (a).

8 (b) A person who is engaged in the rental or leasing of limited use off-highway
9 motorcycles to the public shall have clean, usable protective headgear available for
10 rent in sufficient quantity to provide headgear to all persons under the age of 18 who
11 will be on the limited use off-highway motorcycles that the person rents or leases.

12 (c) The department may promulgate rules to establish minimum standards for
13 the instruction given under par. (a) 1.

14 (8) USE OF PROTECTIVE HEADGEAR. (a) No person under the age of 18 may operate
15 or be a passenger on an off-highway motorcycle that is being operated on an
16 off-highway motorcycle trail or an off-highway motorcycle route without wearing
17 protective headgear of a type that is approved by the department.

18 (b) No person may operate or be a passenger on an off-highway motorcycle that
19 is being operated on an off-highway motorcycle trail or on an off-highway motorcycle
20 route without wearing glasses, wearing goggles, or wearing a protective face shield
21 that is attached to headgear approved by the department.

(9) RULES OF OPERATION. (a) No person who is operating an off-highway motorcycle ^efor recreational purposes ^aoff the highways [✓]within this state may do any of the following:

1. Operate the off-highway motorcycle in any careless way so as to endanger another person or the property of another.

2. Operate the off-highway motorcycle at a rate of speed that is unreasonable under the circumstances.

3. Operate the off-highway motorcycle on private property without the consent of the owner or lessee. Failure to post private property does not imply consent for off-highway motorcycle use.

4. Operate the off-highway motorcycle on public property that is posted as closed to off-highway motorcycle operation or on which the operation of an off-highway motorcycle is prohibited by law.

5. Operate the off-highway motorcycle on Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for off-highway motorcycle use.

6. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour, if the off-highway motorcycle is within 100 feet of a fishing shanty.

7. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour, if the off-highway motorcycle is within 150 feet of a dwelling.

8. Operate the off-highway motorcycle within 100 feet of a person who is not in or on, a snowmobile, or an off-highway vehicle, as defined in s. 23.336 (1) (j), if the off-highway motorcycle is being operated on the frozen surface of public waters.

9. Operate the off-highway motorcycle in a manner which violates rules promulgated by the department.

9. Operate the off-highway vehicle to drive or pursue any animal except as part of normal farming

INSERT 26-20

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operations involving livestock

5
3
1 (b) The speed restriction^s under par. (a) ~~6~~ ^{6. and 8.} ~~do~~ ^{do} not apply to a race or derby
2 sponsored by a local governmental unit, by an off-highway association, as defined
3 in s. ~~23.336~~ ^{S. 23.33(1)(w)} (1) ~~(d)~~, or by a similar organization that is approved by a local
4 governmental unit if the sponsor of the race or derby marks the race or derby route
5 or track to warn spectators from entering the route or track.

6 (c) 1. The distance restriction under par. (a) 8. does not apply to persons who
7 are assisting in directing a race or derby sponsored by a local governmental unit, by
8 an off-highway ~~association~~ ^{vehicle club} as defined in s. ~~23.336~~ ^{23.33} (1) ~~(d)~~ or by a similar
9 organization that is approved by a local governmental unit.

10 2. The distance restriction under par. (a) 8. does not apply if the person who is
11 ~~in the motor vehicle or~~ not on the snowmobile or off-highway vehicle, as defined in s. ~~23.336~~ ^{23.33} (1) ~~(d)~~ gives his
12 or her consent to have the person operating the off-highway motorcycle at a closer
13 distance.

14 (10) OPERATION ON HIGHWAYS; LIMITED USE MOTORCYCLES. (a) *Generally.* No
15 person may operate a limited use off-highway motorcycle on the roadway portion of
16 any highway unless one of the following applies:

17 1. Operation on the roadway is necessary to cross the roadway. The crossing
18 of a roadway is authorized only if the crossing is done in the most direct manner
19 practicable, if the crossing is made at a place where no obstruction prevents a quick
20 and safe crossing, and if the operator stops the limited use off-highway motorcycle
21 prior to entering the crossing and yields the right-of-way to any other vehicles,
22 pedestrians, or electric personal assistive mobility devices that are using the
23 roadway.

24 2. Operation is necessary to cross a bridge, culvert, or railroad right-of-way.
25 The crossing of a bridge, culvert, or railroad right-of-way is not authorized if the

1 roadway is officially closed to off-highway motorcycle traffic. The crossing is
2 authorized only if the crossing is done in the most direct manner practicable, if the
3 crossing is made at a place where no obstruction prevents a quick and safe crossing,
4 and if the operator stops the limited use off-highway motorcycle prior to entering the
5 crossing and yields the right-of-way to any other vehicles, pedestrians, or electric
6 personal assistive mobility devices that are using the roadway.

7 3. Operation is on a roadway which is seasonally not maintained for motor
8 vehicle traffic. Such operation is authorized only during the seasons when no
9 maintenance occurs and only if the roadway is not officially closed to off-highway
10 motorcycle traffic.

11 4. Operation is on a roadway that is an off-highway motorcycle route. Such
12 operation is authorized only for the extreme right side of the roadway except that left
13 turns may be made from any part of the roadway which is safe given prevailing
14 conditions.

15 5. The operator of the limited use off-highway motorcycle is a person who holds
16 a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the
17 purpose of hunting or is otherwise engaging in an activity authorized by the permit.

18 7. ~~a~~ The roadway part of the highway is blocked off for a special off-highway
19 motorcycle event as authorized under par. (b).

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28-17

20 (b) *Off-highway motorcycle events.* A local governmental unit may block off
21 highways under its jurisdiction for the purpose of allowing special off-highway
22 motorcycle events. No state trunk highway or connecting highway, or part thereof,
23 may be blocked off by any local governmental unit for any off-highway motorcycle
24 race or derby. A local governmental unit shall notify the local police department and
25 the county sheriff's office at least one week in advance of the time and place of any

1 off-highway motorcycle race or derby which may result in any street, or part thereof,
2 of the local governmental unit being blocked off.

3 (c) *Freeways*. No person may operate a limited use off-highway motorcycle on
4 any part of any freeway which is a part of the federal system of interstate and defense
5 highways under any circumstances. No person may operate a limited use
6 off-highway motorcycle on any part of any other freeway unless the department of
7 transportation authorizes the use of limited use off-highway motorcycles on that
8 freeway.

9 (11) OPERATION ADJACENT TO ROADWAY. (a) *Location of operation*. 1. A person
10 may operate an off-highway motorcycle for recreational purposes adjacent to a
11 roadway of a town highway that is designated as an off-highway motorcycle route
12 or an off-highway motorcycle trail without any restriction on how close the limited
13 use off-highway motorcycle is to the roadway.

14 2. A person may operate an off-highway motorcycle for recreational purposes
15 adjacent to a roadway of a U.S. numbered highway, a state highway, or a county
16 highway that is designated an off-highway motorcycle route or an off-highway
17 motorcycle trail provided that the operation occurs at a distance of 10 or more feet
18 from the roadway. Travel on the median of a divided highway is prohibited except
19 to cross.

20 (b) *Direction of operation*. 1. Except as provided in subd. 2., a person may
21 operate an off-highway motorcycle on an off-highway motorcycle route or
22 off-highway motorcycle trail adjacent to a road only in the same direction as motor
23 vehicle traffic in the nearest lane.

24 2. A person may operate the off-highway motorcycle in either direction if any
25 of the following applies:

1 a. The off-highway motorcycle is being operated during hours of daylight.

2 b. The off-highway motorcycle is being operated during hours of darkness and
3 the off-highway motorcycle route or off-highway motorcycle trail is located at least
4 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

5 (c) *Other limitation.* A person operating an off-highway motorcycle on an
6 off-highway motorcycle route adjacent to a roadway shall comply with the speed
7 limits of the adjacent roadway and with rules promulgated by the department and
8 approved by the department of transportation.

9 (12) INTOXICATED OPERATION. (a) *Operation.* 1. No person may operate an
10 off-highway motorcycle while under the influence of an intoxicant to a degree which
11 renders him or her incapable of safe operation of the off-highway motorcycle.

12 2. No person may engage in the operation of an off-highway motorcycle while
13 the person has an alcohol concentration of 0.08 or more.

14 3. If a person has not attained the age of 21, the person may not engage in the
15 operation of an off-highway motorcycle while he or she has an alcohol concentration
16 of more than 0.0 but not more than 0.08.

17 4. A person may be charged with and a prosecutor may proceed upon a
18 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising
19 out of the same incident or occurrence. If the person is charged with violating any
20 combination of subd. 1. or 2., the offenses shall be joined. If the person is found guilty
21 of any combination of subd. 1. or 2. for acts arising out of the same incident or
22 occurrence, there shall be a single conviction for purposes of sentencing and for
23 purposes of counting convictions under sub. (21) (c) 2. and 3. Subdivisions 1. and 2.
24 each require proof of a fact for conviction which the others do not require.

1 (b) *Operation causing injury.* 1. No person while under the influence of an
2 intoxicant to a degree which renders him or her incapable of safe operation of an
3 off-highway motorcycle may cause injury to another person by the operation of an
4 off-highway motorcycle.

5 2. No person who has an alcohol concentration of 0.08 or more may cause injury
6 to another person by the operation of an off-highway motorcycle.

7 3. A person may be charged with and a prosecutor may proceed upon a
8 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising
9 out of the same incident or occurrence. If the person is charged with violating any
10 combination of subd. 1. or 2. in the complaint, the crimes shall be joined under s.
11 971.12. If the person is found guilty of any combination of subd. 1. or 2. for acts
12 arising out of the same incident or occurrence, there shall be a single conviction for
13 purposes of sentencing and for purposes of counting convictions under sub. (21) (c)
14 2. and 3. Subdivisions 1. and 2. each require proof of a fact for conviction which the
15 others do not require.

16 4. In an action under this paragraph, the defendant has a defense if he or she
17 proves by a preponderance of the evidence that the injury would have occurred even
18 if he or she had been exercising due care and even if he or she did not have an alcohol
19 concentration of 0.08 or more.

20 (c) *Implied consent.* Any person who engages in the operation of an
21 off-highway motorcycle upon the public highways of this state, or in those areas
22 enumerated in par. (d), is considered to have given consent to provide one or more
23 samples of his or her breath, blood, or urine for the purpose of authorized analysis
24 as required under pars. (f) and (g). Any person who engages in the operation of an
25 off-highway motorcycle within this state is considered to have given consent to

1 submit to one or more chemical tests of his or her breath, blood, or urine for the
2 purpose of authorized analysis as required under pars. (f) and (g).

3 (d) *Applicability of law.* The intoxicated operation of an off-highway
4 motorcycle law applies to all of the following:

5 1. The operation of an off-highway motorcycle on any off-highway motorcycle
6 corridor or any off-highway motorcycle route. *and is not on a highway*

7 2. The operation of any off-highway motorcycle on other premises or areas
8 located off the highways that are held out to the public for the recreational use of
9 off-highway motorcycles whether such premises or areas are publicly or privately
10 owned and whether or not a fee is charged for the use of an off-highway motorcycle.

11 3. The operation of a limited use off-highway motorcycle on a highway as
12 authorized under sub. (10).

13 4. The operation of an off-highway motorcycle adjacent to a highway as
14 authorized under sub. (11).

15 (e) *Preliminary breath screening.* 1. A person shall provide a sample of his or
16 her breath for a preliminary breath screening test if a law enforcement officer has
17 probable cause to believe that the person is violating or has violated the intoxicated
18 operation of an off-highway motorcycle law and if, prior to an arrest, the law
19 enforcement officer requested the person to provide this sample.

20 2. A law enforcement officer may use the results of a preliminary breath
21 screening test for the purpose of deciding whether or not to arrest a person for a
22 violation of the intoxicated operation of an off-highway motorcycle law or for the
23 purpose of deciding whether or not to request a chemical test under par. (f).
24 Following the preliminary breath screening test, chemical tests may be required of
25 the person under par. (f).

1 3. The result of a preliminary breath screening test is not admissible in any
2 action or proceeding except to show probable cause for an arrest, if the arrest is
3 challenged, or to show that a chemical test was properly required of a person under
4 par. (f).

5 4. There is no penalty for a violation of subd. 1. Subsection (21) (a) and the
6 general penalty provision under s. 939.61 do not apply to the violation.

7 (f) *Chemical tests; requirement.* 1. A person shall provide one or more samples
8 of his or her breath, blood, or urine for the purpose of authorized analysis if he or she
9 is arrested for a violation of the intoxicated operation of an off-highway motorcycle
10 law and if he or she is requested to provide the sample by a law enforcement officer.
11 A person shall submit to one or more chemical tests of his or her breath, blood, or
12 urine for the purpose of authorized analysis if he or she is arrested for a violation of
13 the intoxicated operation of an off-highway motorcycle law and if he or she is
14 requested to submit to the test by a law enforcement officer.

15 2. A law enforcement officer requesting a person to provide a sample or to
16 submit to a chemical test under subd. 1. shall inform the person of all of the following
17 at the time of the request and prior to obtaining the sample or administering the test:

18 a. That he or she is deemed to have consented to tests under par. (c).

19 b. That a refusal to provide a sample or to submit to a chemical test constitutes
20 a violation under par. (h) and is subject to the same penalties and procedures as a
21 violation of par. (a) 1.

22 c. That in addition to the designated chemical test under par. (g) 2., he or she
23 may have an additional chemical test under par. (g) 4.

24 3. A person who is unconscious or otherwise not capable of withdrawing
25 consent is presumed not to have withdrawn consent under this paragraph, and if a

1 law enforcement officer has probable cause to believe that the person violated the
2 intoxicated operation of an off-highway motorcycle law, one or more chemical tests
3 may be administered to the person without a request under subd. 1. and without
4 providing information under subd. 2.

5 (g) *Chemical tests; procedures.* 1. Upon the request of a law enforcement officer,
6 a test facility shall administer a chemical test of breath, blood, or urine for the
7 purpose of authorized analysis. A test facility shall be prepared to administer 2 out
8 of 3 of these tests for the purpose of authorized analysis. The department may enter
9 into agreements for the cooperative use of test facilities.

10 2. A test facility shall designate one chemical test of breath, blood, or urine
11 which it is prepared to administer first as the primary test for the purpose of
12 authorized analysis.

13 3. A test facility shall designate another chemical test of breath, blood, or urine,
14 other than the test designated under subd. 2., which it is prepared to administer as
15 an additional chemical test for the purpose of authorized analysis.

16 4. If a person is arrested for a violation of the intoxicated operation of an
17 off-highway motorcycle law or is the operator of an off-highway motorcycle involved
18 in an accident resulting in great bodily harm to or the death of someone and if the
19 person is requested to provide a sample or to submit to a test under par. (f) 1., the
20 person may request the test facility to administer the additional chemical test
21 specified under subd. 3.. or, at his or her own expense, reasonable opportunity to have
22 any qualified person administer a chemical test of his or her breath, blood or urine
23 for the purpose of authorized analysis.

24 5. If a person is arrested for a violation of the intoxicated operation of an
25 off-highway motorcycle law and if the person is not requested to provide a sample

1 or to submit to a test under par. (f) 1., the person may request the test facility to
2 administer a chemical test of his or her breath or may request, at his or her own
3 expense, a reasonable opportunity to have any qualified person administer a
4 chemical test of his or her breath, blood, or urine for the purpose of authorized
5 analysis. If a test facility is unable to perform a chemical test of breath, the person
6 may request the test facility to administer the chemical test designated under par.
7 (f) 2. or the additional chemical test designated under par. (f) 3.

8 6. A test facility shall comply with a request under this paragraph to
9 administer any chemical test it is able to perform.

10 7. The failure or inability of a person to obtain a chemical test at his or her own
11 expense does not preclude the admission of evidence of the results of a chemical test
12 required and administered under par. (f) or (g).

13 8. A chemical test of blood or urine conducted for the purpose of authorized
14 analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of
15 the laboratory of hygiene, department of health services, and department of
16 transportation under s. 343.305 (6) apply to a chemical test of blood or urine
17 conducted for the purpose of authorized analysis under pars. (f) and (g). Blood may
18 be withdrawn from a person arrested for a violation of the intoxicated operation of
19 an off-highway motorcycle law only by a physician, registered nurse, medical
20 technologist, physician assistant, or person acting under the direction of a physician,
21 and the person who withdraws the blood, the employer of that person, and any
22 hospital where blood is withdrawn have immunity from civil or criminal liability as
23 provided under s. 895.53.

24 9. A test facility which administers a chemical test of breath, blood, or urine
25 for the purpose of authorized analysis under pars. (f) and (g) shall prepare a written

1 report which shall include the findings of the chemical test, the identification of the
2 law enforcement officer or the person who requested a chemical test, and the
3 identification of the person who provided the sample or submitted to the chemical
4 test. The test facility shall transmit a copy of the report to the law enforcement officer
5 and the person who provided the sample or submitted to the chemical test.

6 (h) *Chemical tests; refusal.* No person may refuse a lawful request to provide
7 one or more samples of his or her breath, blood, or urine or to submit to one or more
8 chemical tests under par. (f). A person shall not be considered to have refused to
9 provide a sample or to submit to a chemical test if it is shown by a preponderance of
10 the evidence that the refusal was due to a physical inability to provide the sample
11 or to submit to the test due to a physical disability or disease unrelated to the use of
12 an intoxicant. Issues in any action concerning violation of par. (f) or this paragraph
13 are limited to the following:

14 1. Whether the law enforcement officer had probable cause to believe the
15 person was violating or had violated the intoxicated operation of an off-highway
16 motorcycle law.

17 2. Whether the person was lawfully placed under arrest for violating the
18 intoxicated operation of an off-highway motorcycle law.

19 3. Whether the law enforcement officer requested the person to provide a
20 sample or to submit to a chemical test and provided the information required under
21 par. (f) 2. or whether the request and information was unnecessary under par. (f) 3.

22 4. Whether the person refused to provide a sample or to submit to a chemical
23 test.

24 (i) *Chemical tests; effect of test results.* The results of a chemical test required
25 or administered under par. (f) or (g) are admissible in any civil or criminal action or

1 proceeding arising out of the acts committed by a person alleged to have violated the
2 intoxicated operation of an off-highway motorcycle law on the issue of whether the
3 person was under the influence of an intoxicant or the issue of whether the person
4 had alcohol concentrations at or above specified levels. Results of these chemical
5 tests shall be given the effect required under s. 885.235. Paragraphs (f) to (h) do not
6 limit the right of a law enforcement officer to obtain evidence by any other lawful
7 means.

8 (j) *Report of arrest to department.* If a law enforcement officer arrests a person
9 for a violation of the intoxicated operation of an off-highway motorcycle law or the
10 refusal law, the law enforcement officer shall notify the department of the arrest as
11 soon as practicable.

12 (k) *Release of persons arrested.* 1. A person arrested for a violation of the
13 intoxicated operation of the off-highway motorcycle law may not be released until
14 12 hours have elapsed from the time of his or her arrest or unless a chemical test
15 administered under par. (a) 1. or 2. shows that the person has an alcohol
16 concentration of 0.05 or less, except as provided in subd 2.

17 2. A person arrested for a violation of the intoxicated operation of the
18 off-highway motorcycle law may be released to his or her attorney, spouse, relative,
19 or other responsible adult at any time after arrest.

20 (14) (13) AGE RESTRICTIONS; SAFETY CERTIFICATE REQUIREMENTS. (a) *Under 12 years*
21 *of age.* No person under 12 years of age may operate an off-highway motorcycle on
22 a roadway under any circumstances and may not operate an off-highway motorcycle
23 off a roadway unless he or she is operating a small off-highway motorcycle and he
24 or she is accompanied by a parent or guardian or by a person who is at least 18 years
25 of age who has been designated by the parent or guardian.

← INSERT 37-19

1 (b) *At least 12 years of age.* No person who is at least 12 years of age and born
2 after January 1, 1998, may operate a limited use off-highway motorcycle unless the
3 person holds a valid certificate issued by the department or by another state or a
4 province of Canada.

5 (c) *Exemptions.* 1. The restrictions under pars. (a) and (b) do not apply to the
6 operation of a limited use off-highway motorcycle on private property if the owner
7 of the property has given consent for the operation and does not hold the property
8 out to the public for use of off-highway motorcycles.

9 2. The restriction under par. (a) does not apply to a person who is operating an
10 off-highway motorcycle at an off-highway motorcycle event sponsored by a local
11 governmental unit, by an off-highway ^{vehicle} association, as defined in s. 23.335 (1) ^(X) ~~23.336~~ (1) ~~(e)~~, or
12 by a similar organization that is approved by a local governmental unit, who is
13 wearing protective headgear in compliance with sub. (8) (a), and who is accompanied
14 by a person who is at least 18 years of age or a parent or guardian.

****NOTE: This exemption in sub. (13) (c) 2. exempts persons under 12 who are participating in any "off-highway motorcycle event." This could include a race or derby. OK?

****NOTE: Please note that unlike the operation of ATVs by persons under the age of 12, operation of OHMs by persons under 12 is not limited on OHM trails. Please review the language in this draft under s. 23.335 (9), (10), (11), and (13) and the language found in current law s. 23.33 (3), (4), and (5) very carefully to make sure persons under 12 years old will not be authorized to operate small OHMs under circumstances that you do not intend.

15 (16) ~~(14)~~ LANDOWNER INCENTIVE PAYMENT PROGRAM. (a) The department shall
16 establish a program to make incentive payments to private landowners who permit
17 off-highway motorcycle corridors on their lands and who apply for the payments.

18 (b) An application is not considered complete until the forester or another
19 employee of each county in which the off-highway motorcycle corridor is located

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1 measures the length of the corridor in that county for the purpose of calculating the
2 payment.

3 (c) The department shall allocate a certain amount for the incentive payments
4 under this program for each fiscal year and shall promulgate rules to determine the
5 amount of the individual incentive payments. If the total amount of incentive
6 payments made in a given fiscal year would exceed the amount available for the
7 payments, the department shall establish a system to prorate the payments.

8 (d) The department shall make the incentive payments under this subsection
9 from the appropriation under s. 20.370 (1) (is).

10 **** NOTE: MGR - Need to link to correct appropriation.*
(17) (15) EQUIPMENT REQUIREMENTS. (a) No person may operate a limited use
11 off-highway motorcycle during hours of darkness unless it is equipped with a lighted
12 headlamp and a lighted tail lamp. The headlamp is required to display a white light
13 of sufficient illuminating power to reveal any person, vehicle, or substantial object
14 at a distance of at least 200 feet ahead of the off-highway motorcycle. The tail lamp
15 is required to display a red light plainly visible from a distance of 500 feet to the rear.

16 (b) No person may operate a limited use off-highway motorcycle unless it is
17 equipped with all of the following:

- 18 1. At least one brake operated either by hand or by foot.
- 19 2. Foot rests or pegs for the operator and any passenger.
- 20 3. A functioning spark arrester of a type approved by the U.S. forest service.
- 21 4. A functioning muffler unless the off-highway motorcycle is propelled by
22 electric power.

23 (c) No person may operate a limited use off-highway motorcycle unless the
24 limited use off-highway motorcycle is constructed in such a manner that noise
25 emitted from the limited use off-highway motorcycle does not exceed 96 decibels on

Or in the injury of any person that requires treatment by a physician,
the A scale as measured in the manner required under rules promulgated by the department.

(d) Paragraphs (a) to (c) do not apply to the operation of a limited use off-highway motorcycle on private property if the owner of the property has given consent for the operation and does not hold the property out to the public for use of off-highway motorcycles. *a highway and*

(15) ~~(16)~~ ACCIDENTS. (a) If an operator of an off-highway motorcycle is involved in an accident that occurs off ~~the highways~~ *within this state* that results in the death of any person, the operator of each off-highway motorcycle involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible *Each operator* and shall file a written report of the accident with the department on the form provided by it within 10 days after the accident. *also* This paragraph applies only if the off-highway motorcycle was being operated for recreational purposes at the time of the accident.

(b) If the operator of an off-highway motorcycle is involved in an accident that occurs on an off-highway motorcycle trail, an off-highway motorcycle route, or on other property that is open to the public for the recreational use of off-highway motorcycles, the operator of each off-highway motorcycle involved shall give notice as provided in par. (a).

(b) ~~(a)~~ If ~~the~~ *an* operator of an off-highway motorcycle is physically incapable of making the report required under par. (a) *or (b)* and there was another witness to the accident capable of making the report, the witness may make the report.

(19) ~~(17)~~ TRAILS AND ROUTES. (a) *Department authority*. The department shall encourage *develop* and supervise a system of off-highway motorcycle trails and off-highway motorcycle routes. The department may establish standards and procedures for

1 designating off-highway motorcycle corridors and off-highway motorcycle routes
2 under the jurisdiction of the department.

3 (b) *Trails*. A local governmental unit or the department may designate
4 corridors through land which it owns or controls, or for which it obtains leases,
5 easements, or permission, for ^{recreational} use as off-highway motorcycle trails. A designation
6 may include all or a portion of an all-terrain vehicle trail.

7 (c) *Routes*. A local governmental unit may designate highways as off-highway
8 motorcycle routes. No state trunk highway or connecting highway may be
9 designated as an off-highway motorcycle route unless the department of
10 transportation approves the designation.

11 (d) *Restrictions*. The designating local governmental unit may specify effective
12 periods for the use of off-highway motorcycle trails and off-highway motorcycle
13 routes and may restrict or prohibit the operation of off-highway motorcycles during
14 certain periods of the year.

15 (20) ~~(18)~~ ENFORCEMENT ACTIVITIES AND PROJECTS; FUNDING. (a) *Enforcement*
16 *activities*. The department may utilize moneys received as fees under subs. (4) and
17 (5) for off-highway motorcycle registration aids administration and for state and
18 local law enforcement operations related to off-highway motorcycles, including
19 actual enforcement, accident reporting, and similar activities.

20 (b) *Off-highway motorcycle projects*. The department may use funding from
21 the appropriation under s. 20.370 (1) (is) for off-highway motorcycle projects that are
22 undertaken by the state or by local governmental units. Any of the following types
23 of off-highway motorcycle projects are eligible for funding:

**** NOTE: MGR-Need to link to correct appropriation.

24 1. Acquisition of an easement or land in fee simple.

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SECTION 51

an all-terrain vehicle

2. An off-highway motorcycle facility such as a parking area, riding area, shelter, toilets, or other improvement.

3. Development of ~~off-highway~~ motorcycle routes or off-highway motorcycle trails.

*snowmobile**all-terrain vehicle route*

4. Development or maintenance of an all-terrain vehicle trail, route, or facility or a snowmobile trail, route, or facility, if the trail, route, or facility is open for use by off-highway motorcycles.

5. Maintenance of off-highway motorcycle trails and off-highway motorcycle routes.

6. Purchase of liability insurance.

*✓ 1. b.**sub. (12)(L) (20e)*

(c) *Priority*. In providing funding for the types of projects listed in par. (b), the department may not give priority to one type of project over another type of project.

(d) *Signs*. In addition to the types of projects listed in par. (b), the department may provide funding under this subsection to a local governmental unit for up to 100 percent of the cost of placing signs developed under § 23.336 (4) (a) 2.

(e) *Charging of fees*. A local governmental unit that has not received funding under par. (b) in the prior fiscal year may charge a seasonal or daily use fee for an off-highway motorcycle area operated by the local governmental unit.

(21) (19) LOCAL ORDINANCES. (a) Any local governmental unit may enact an ordinance which is in strict conformity with this section and rules promulgated by the department under this section, if the ordinance encompasses all aspects encompassed by this section.

(b) If a local governmental unit enacts an ordinance regulating off-highway motorcycles, its clerk shall immediately send a copy of the ordinance to the department and to the office of any law enforcement agency of the local governmental

1 unit having jurisdiction over any highway designated as an off-highway motorcycle
2 route. (22)

3 ~~(20)~~ ENFORCEMENT. (a) A law enforcement officer has the authority and
4 jurisdiction to enforce this section and ordinances enacted in accordance with this
5 section.

6 (b) No operator of an off-highway motorcycle may refuse to stop after being
7 requested or signaled to do so by a law enforcement officer.

8 ~~(21)~~ PENALTIES. (a) *Generally*. Except as provided in pars. (b) to ~~(e)~~ ^(f), any person
9 who violates this section shall forfeit not more than \$250.

10 (b) *Penalty related to nonresident trail passes*. Any person who violates sub.
11 (6) (a) shall forfeit not more than \$1,000.

12 (c) *Penalties related to intoxicated operation*. 1. Except as provided under
13 subds. 2. and 3., a person who violates sub. (12) (a) 1. or 2. or (h) shall forfeit not less
14 than \$150 nor more than \$300.

15 2. Except as provided under subd. 3., a person who violates sub. (12) (a) 1. or
16 2. or (h) and who, within 5 years prior to the arrest for the current violation, was
17 convicted previously under the intoxicated operation of an off-highway motorcycle
18 law shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned
19 not less than 5 days nor more than 6 months.

20 3. A person who violates sub. (12) (a) 1. or 2. or (h) and who, within 5 years prior
21 to the arrest for the current violation, was convicted 2 or more times previously under
22 the intoxicated operation of an off-highway motorcycle law shall be fined not less
23 than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor
24 more than one year in the county jail.

1 4. A person who violates sub. (12) (a) 3. or (h) and who has not attained the age
2 of 21 shall forfeit not more than \$50.

3 (d) *Penalty related to causing injury; intoxicants.* A person who violates sub.
4 (12) (b) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned
5 not less than 30 days nor more than one year in the county jail.

6 ^g
~~(g)~~ *Calculation of previous convictions.* In determining the number of previous
7 convictions under par. (c) 2. and 3., convictions arising out of the same incident or
8 occurrence shall be counted as one previous conviction.

9 ^h
~~(h)~~ *Reporting convictions to the department.* Whenever a person is convicted of
10 a violation of the intoxicated operation of an off-highway motorcycle law, the clerk
11 of the court in which the conviction occurred, or the justice, judge, or magistrate of
12 a court not having a clerk, shall forward to the department the record of such
13 conviction. The record of conviction forwarded to the department shall state whether
14 the offender was involved in an accident at the time of the offense.

15 ⁱ
~~(i)~~ *Intoxicants; assessment.* In addition to any other penalty or order, a person
16 who violates sub. (12) (a), (b), or (h) shall be ordered by the court to submit to and
17 comply with an assessment by an approved public treatment facility for an
18 examination of the person's use of an intoxicant. The assessment order shall comply
19 with s. 343.30 (1q) (c) 1. Intentional failure to comply with an assessment ordered
20 under this paragraph constitutes contempt of court, punishable under ch. 785.

21 **SECTION 52.** 23.336 (title) of the statutes is created to read:

22 **23.336 (title) Off-highway vehicles; safety programs; signage.**

23 **SECTION 53.** 23.336 (1) of the statutes is created to read:

24 23.336 (1) DEFINITIONS. In this section:

25 (a) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).

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1 (b) "All-terrain vehicle route" has the meaning given in s. 23.33 (1) (c).

2 (c) "All-terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).

3 (d) "Off-highway association" means a club or other association consisting of
4 individuals that promotes the recreational operation of any combination of the
5 following:

6 1. All-terrain vehicles.

7 2. Off-highway motorcycles.

8 3. Utility terrain vehicles.

9 (e) "Off-highway motorcycle" has the meaning given in s. 23.335 (1) (r).

10 (f) "Off-highway motorcycle route" has the meaning given in s. 23.335 (1) (u).

11 (g) "Off-highway motorcycle trail" has the meaning given in s. 23.335 (1) (v).

12 (h) "Off-highway route" means an all-terrain vehicle route or an off-highway
13 motorcycle route.

14 (i) "Off-highway trail" means an all-terrain vehicle trail or an off-highway
15 motorcycle trail.

16 (j) "Off-highway vehicle" means an all-terrain vehicle, an off-highway
17 motorcycle, or a utility terrain vehicle.

18 (k) "Snowmobile association" means a snowmobile club, as defined in s. 350.138
19 (1) (e) or a snowmobile alliance, as defined in s. 350.138 (1) (f), or other association
20 consisting of individuals that promotes the recreational operation of snowmobiles.

21 (L) "Utility terrain vehicle" has the meaning given in s. 23.33 (1) (ng).

22 **SECTION 54.** 23.336 (5) (d) 1. of the statutes is created to read:

23 23.336 (5) (d) 1. Except as provided in subds. 2. and 3., any person who violates
24 par. (a) or (b) shall forfeit not more than \$250.

25 **SECTION 55.** 23.35 (1) (intro.) of the statutes is amended to read:

23.35 (1) (intro.) of the statutes is amended to read:

1 23.35 (1) (intro.) The secretary shall enter into a reciprocal agreement with a
2 federally recognized American Indian tribe or band in this state to exempt, from the
3 registration and certification requirements of this state, boats, snowmobiles,
4 all-terrain vehicles, and utility terrain vehicles, and off-highway motorcycles that
5 are owned by tribal or band members and registered under a registration program
6 established by the tribe or band if the tribe or band requests the agreement and if
7 the registration program does all of the following:

8 **SECTION 56.** 23.35 (1) (a) of the statutes is amended to read:

9 23.35 (1) (a) Requires that boats, snowmobiles, all-terrain vehicles, and utility
10 terrain vehicles, and off-highway motorcycles display decals or identification
11 numbers showing valid registration by the tribe or band.

12 **SECTION 57.** 23.35 (1) (b) of the statutes is amended to read:

13 23.35 (1) (b) Employs registration decals and certificates of number that are
14 substantially similar to those employed by the registration or certification programs
15 of this state with regard to size, legibility, information content and placement on the
16 boat, snowmobile, all-terrain vehicle, or utility terrain vehicle, or off-highway
17 motorcycle.

18 **SECTION 58.** 23.35 (1) (e) of the statutes is amended to read:

19 23.35 (1) (e) Provides reciprocal exemptions, from the tribe's or band's
20 registration requirements, for boats, snowmobiles, all-terrain vehicles, and utility
21 terrain vehicles, and off-highway motorcycles that are registered or certified by this
22 state that are substantially as favorable as the exemptions enjoyed by the tribe or
23 the band under the agreement. In this paragraph, "reciprocal exemption" means an
24 exemption under the agreement that exempts from a tribe's or band's registration
25 requirements, for operation within the boundaries of the tribe's or band's

1 reservation, a boat, snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or
2 off-highway motorcycle that is owned by a person who is not a member of the tribe
3 or band and that is registered or certified by this state to the same extent that the
4 agreement exempts from state registration and certification requirements, for the
5 operation outside the boundaries of the tribe's or band's reservation, a boat,
6 snowmobile, all-terrain vehicle, ~~or~~ utility terrain vehicle, or off-highway motorcycle
7 that is registered by the tribe or band.

8 **SECTION 59.** 23.35 (2) of the statutes is amended to read:

9 23.35 (2) An agreement entered into under sub. (1) may cover a registration
10 program for boats, snowmobiles, all-terrain vehicles, ~~or~~ utility terrain vehicles, or
11 off-highway motorcycles, or any combination thereof.

12 **SECTION 60.** 23.45 (1) (d) of the statutes is renumbered 23.45 (1) (d) (intro.) and
13 amended to read:

14 23.45 (1) (d) (intro.) "Registration" means any ~~registration~~ of the following:

- 15 1. Any registration documentation, as defined in s. 23.33 (1) (jn) or s. 350.01
16 (10t), ~~or that is issued by the department or its agents.~~
17 2. Any certification or registration documentation, as defined in s. 30.50 (3b),
18 that is issued by the department or its agents.

19 **SECTION 61.** 23.45 (1) (d) 3. of the statutes is created to read:

20 23.45 (1) (d) 3. Any certificate issued by the department under s. 23.335 (3).

21 **SECTION 62.** 23.50 (1) of the statutes is amended to read:

22 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
23 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,
24 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),
25 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2),

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1 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any
2 administrative rules promulgated thereunder, violations specified under s. 280.98
3 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal,
4 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),
5 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances
6 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (19) (a), ⁽²¹⁾
7 or 30.77.

8 **SECTION 63.** 23.50 (3) of the statutes is amended to read:

9 23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees,
10 and surcharges imposed under ch. 814, for violations of local ordinances enacted by
11 any local authority in accordance with s. 23.33 (11) (am), 23.335 (19) (a), ⁽²¹⁾ or 30.77
12 shall utilize the procedure in ch. 800. The actions shall be brought before the
13 municipal court having jurisdiction. Provisions relating to citations, arrests,
14 questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51
15 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to
16 violations of such ordinances.

17 **SECTION 64.** 23.53 (1) of the statutes is amended to read:

18 23.53 (1) The citation created under this section shall, in all actions to recover
19 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of
20 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
21 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41
22 (7) (k) be used by any law enforcement officer with authority to enforce those laws,
23 except that the uniform traffic citation created under s. 345.11 may be used by a
24 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law
25 enforcement agency of a municipality or county or a traffic officer employed under

1 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall
2 not be used for violations of ch. 350 relating to highway use. The citation may be used
3 for violations of local ordinances enacted by any local authority in accordance with
4 s. 23.33 (11) (am), 23.335 (19) ⁽²¹⁾ (a), or 30.77.

5 **SECTION 65.** 23.56 (1) of the statutes is amended to read:

6 23.56 (1) A person may be arrested for a violation of those statutes enumerated
7 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the
8 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances
9 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (19) ⁽²¹⁾ (a),
10 or 30.77, after a warrant that substantially complies with s. 968.04 has been issued.

11 Except as provided in sub. (2), the person arrested shall be brought without
12 unreasonable delay before a court having jurisdiction to try the action.

13 **SECTION 66.** 23.57 (1) (intro.) of the statutes is amended to read:

14 23.57 (1) (intro.) A person may be arrested without a warrant when the
15 arresting officer has probable cause to believe that the person is committing or has
16 committed a violation of those statutes enumerated in s. 23.50 (1), any
17 administrative rules promulgated thereunder, any rule of the Kickapoo reserve
18 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local
19 authority in accordance with s. 23.33 (11) (am), 23.335 (19) ⁽²¹⁾ (a), or 30.77; and:

20 **SECTION 67.** 23.58 of the statutes is amended to read:

21 **23.58 Temporary questioning without arrest.** After having identified
22 himself or herself as an enforcing officer, an enforcing officer may stop a person in
23 a public place for a reasonable period of time when the officer reasonably suspects
24 that such person is committing, is about to commit or has committed a violation of
25 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated

1 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)
2 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33
3 (11) (am), 23.335 (19) (a)^{(21) ✓}, or 30.77. Such a stop may be made only where the enforcing
4 officer has proper authority to make an arrest for such a violation. The officer may
5 demand the name and address of the person and an explanation of the person's
6 conduct. Such detention and temporary questioning shall be conducted in the
7 vicinity where the person was stopped.

8 **SECTION 68.** 23.62 (1) (intro.) of the statutes is amended to read:

9 23.62 (1) (intro.) Whenever an enforcing officer has probable cause to believe
10 that a person subject to his or her authority is committing or has committed a
11 violation of those statutes enumerated in s. 23.50 (1), any administrative rules
12 promulgated thereunder, any rule of the Kickapoo reserve management board under
13 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance
14 with s. 23.33 (11) (am), 23.335 (19) (a)^{(21) ✓}, or 30.77, the officer may proceed in the
15 following manner:

16 **SECTION 69.** 25.29 (1) (b) of the statutes is amended to read:

17 25.29 (1) (b) One percent of all sales and use taxes under s. 77.61 (1) on
18 all-terrain vehicles, utility terrain vehicles, ~~off-highway motorcycles~~, boats, and
19 snowmobiles collected under ss. 23.33, 23.335, 30.52 (4), 350.12 and 350.122.

20 **SECTION 70.** 25.29 (1) (dt) of the statutes is created to read:

21 25.29 (1) (dt) 1. For fiscal year 2014-15, and for each fiscal year thereafter, the
22 estimated off-highway motorcycle gas tax payment is calculated by multiplying the
23 total amount calculated under subd. 2. by 50 gallons and multiplying that product
24 by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous
25 fiscal year.

1 2. For purposes of subd 1., the total amount shall be the sum of all of the
2 following:

3 a. The number of off-highway motorcycles registered for public use under s.
4 23.335 (3) on the last day of February of the previous fiscal year.

5 b. The number of off-highway motorcycle registration decals issued under s.
6 23.335 (5) (a) during the previous fiscal year.

7 c. The number of nonresident trail passes issued under s. 23.335 (6) during the
8 previous fiscal year.

9 **SECTION 71.** 25.40 (3) (b) 14. of the statutes is amended to read:

10 25.40 (3) (b) 14. Transfers to the conservation fund for motor fuel tax collections
11 on the use of fuel by snowmobiles, all-terrain vehicles, utility terrain vehicles,
12 limited use off-highway motorcycles, and motorboats.

13 **SECTION 72.** 30.26 (4) (title) of the statutes is amended to read:

14 30.26 (4) (title) ~~SNOWMOBILES, ALL TERRAIN VEHICLES, AND UTILITY TERRAIN~~
15 OFF-HIGHWAY VEHICLES.

16 **SECTION 73.** 30.26 (4) (a) (intro.) of the statutes is amended to read:

17 30.26 (4) (a) (intro.) The department may not prohibit the crossing of a bridge
18 over a wild river by an all-terrain vehicle ~~or~~ utility terrain vehicle, ~~or off-highway~~
19 motorcycle, as defined in s. 23.335 (1) (r) ~~traveling on an all-terrain vehicle trail, as~~
20 defined under s. 23.33 (1) (d), or by a snowmobile traveling on a snowmobile trail, as
21 defined under s. 350.01 (17) that is constructed in any of the following locations.

22 **SECTION 74.** 30.26 (4) (b) of the statutes is amended to read:

23 30.26 (4) (b) The state shall permit all-terrain vehicles, utility terrain vehicles,
24 off-highway motorcycles, and snowmobiles to travel in a corridor across any state

INSERT
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land that separates an all-terrain vehicle trail or a snowmobile trail and the bridges constructed at the locations listed under par. (a).

SECTION 75. 30.29 (1) (b) of the statutes is amended to read:

30.29 (1) (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s. 23.33 (1) (ng), and an all-terrain vehicle, as defined in s. 340.01 (2g), and an off-highway motorcycle, as defined in s. 23.335 (1) (p).

SECTION 76. 46.03 (18) (f) of the statutes is amended to read:

46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or airman or driver safety plan under s. 23.33 (13) (e), 23.335 (21) (a), 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42 or traffic safety school under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver safety plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived. Nonpayment of the assessment fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan. Upon a finding that the person has the ability to pay, nonpayment of the airman or driver safety plan fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan.

SECTION 77. 59.54 (14) (g) of the statutes is amended to read:

59.54 (14) (g) A county may establish extensions of the jail, which need not be at the county seat, to serve as places of temporary confinement. No person may be detained in such an extension for more than 24 consecutive hours, except that a court may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c),

(23) ✓

1 23.335 (21) (c) 2. or 3. or (d), or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than
2 24 consecutive hours in such an extension. Jail extensions shall be subject to plans
3 and specifications approval by the department of corrections and shall conform to
4 other requirements imposed by law on jails, except that cells may be designed and
5 used for multiple occupancy.

6 **SECTION 78.** 70.11 (45m) of the statutes is amended to read:

7 70.11 (45m) ~~SNOWMOBILE, ALL-TERRAIN VEHICLE, AND UTILITY TERRAIN~~
8 RECREATIONAL VEHICLE CLUBS. Trail groomers owned by an off-highway association,
9 as defined in s. 23.336 (1) (d), or a snowmobile club, an all-terrain vehicle club, or
10 a utility terrain vehicle club association, as defined in s. 23.336 (1) (k), that is exempt
11 from taxation under section 501 (c) (3), (4), or (7) of the Internal Revenue Code.

12 **SECTION 79.** 71.05 (6) (b) 44. of the statutes is amended to read:

13 71.05 (6) (b) 44. For taxable years beginning after December 31, 2006, the
14 amount of any incentive payment received by an individual under s. 23.33 (5r) or
15 23.335 (16) in the taxable year to which the claim relates. INSERT
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16 **SECTION 80.** 71.26 (1) (g) of the statutes is amended to read:

17 71.26 (1) (g) For taxable years beginning after December 31, 2006, the amount
18 of any incentive payment received by ~~an individual~~ any person under s. 23.33 (5r) or
19 23.335 (16) in the taxable year to which the claim relates.

20 **SECTION 81.** 71.45 (1) (b) of the statutes is amended to read:

21 71.45 (1) (b) For taxable years beginning after December 31, 2006, the amount
22 of any incentive payment received by an ~~individual~~ insurer under s. 23.33 (5r) or
23 23.335 (16) in the taxable year to which the claim relates.

24 **SECTION 82.** 77.51 (13s) of the statutes is amended to read:

1 77.51 (13s) "Safety classes" means all classes approved by the department of
2 natural resources related to hunting, including hunting with a bow, and related to
3 firearms, all-terrain vehicles, utility terrain vehicles, off-highway motorcycles,
4 boats, and snowmobiles.

← INSERT 54-4

5 **SECTION 83.** 77.73 (2) of the statutes is amended to read:

6 77.73 (2) Counties and special districts do not have jurisdiction to impose the
7 tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b),
8 (c), and (d), and tangible personal property, except snowmobiles, trailers,
9 semitrailers, ^{limited use} off-highway motorcycles ^{gas} as defined in s. 23.335 (1) (r), all-terrain
10 vehicles, and utility terrain vehicles, purchased in a sale that is consummated in
11 another county or special district in this state that does not have in effect an
12 ordinance or resolution imposing the taxes under this subchapter and later brought
13 by the buyer into the county or special district that has imposed a tax under s. 77.71
14 (2).

****NOTE: I changed this from limited use OHMs to all OHMs because at the time of sale, it is not known whether the OHM will be registered with DOT, with DNR, or with both.

15 **SECTION 84.** 78.01 (2) (e) of the statutes is amended to read:

16 78.01 (2) (e) Gasoline sold for nonhighway use in mobile machinery and
17 equipment; other than use in a snowmobile, ^q in a limited use off-highway motorcycle
18 that is not registered for private use under s. 23.335 (3) (a), ^q in an all-terrain vehicle
19 or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d),
20 or ^q in a recreational motorboat; and delivered directly into the consumer's storage
21 tank in an amount of not less than 100 gallons.

22 **SECTION 85.** 78.01 (2m) (f) of the statutes is amended to read:

78.01 (2m) (f) It is dyed diesel fuel and is sold for off-highway use other than use in a snowmobile, in a limited use off-highway motorcycle that is not registered for private use under s. 23.335 (3) (a), in an all-terrain vehicle or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or in a recreational motorboat or if no claim for a refund for the tax on the diesel fuel may be made under s. 78.75 (1m) (a) 3.

SECTION 86. 78.40 (1) of the statutes is amended to read:

78.40 (1) IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply tanks of motor vehicles in this state, attaches at the time of delivery and shall be collected by the dealer from the alternate fuels user and shall be paid to the department. The tax, with respect to alternate fuels acquired by any alternate fuels user other than by delivery by an alternate fuel dealer into a fuel supply tank of a motor vehicle, ~~or~~ ^{of a} snowmobile, ~~of a~~ ^{an} limited use off-highway motorcycle that is not registered for private use under s. 23.335 (3) (a), of an all-terrain vehicle or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or of a recreational motorboat, attaches at the time of the use of the fuel and shall be paid to the department by the user. The department may permit any supplier of alternate fuels to report and pay to the department the tax on alternate fuels delivered into the storage facility of an alternate fuels user or retailer which will be consumed for alternate fuels tax purposes or sold at retail.

SECTION 87. 78.75 (1m) (a) 1. of the statutes is amended to read:

78.75 (1m) (a) 1. Except as provided under subds. 2. ~~and 2m.~~ to 2r., a person who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax

required under this chapter, for the purpose of operating a taxicab for the transportation of passengers, for the purpose of operating a motorboat exempt from registration as a motor vehicle under s. 341.05 (20) on privately owned land or for any purpose other than operating a motor vehicle upon the public highways, shall be reimbursed and repaid the amount of the tax paid upon making and filing a claim if the claim is for the tax on 100 gallons or more.

SECTION 88. 78.75 (1m) (a) 2r. of the statutes is created to read:

78.75 (1m) (a) 2r. A person who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax required under this chapter for the purpose of operating a limited use off-highway motorcycle, as defined under s. 23.335 (1) ⁽ⁿ⁾ may not be reimbursed or repaid the amount of tax paid unless the off-highway motorcycle is registered for private use under s. 23.335 (3) (a).

SECTION 89. 78.75 (1m) (a) 3. of the statutes is amended to read:

78.75 (1m) (a) 3. Claims under subd. 1. shall be made and filed. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for motorboats, except motorboats exempt from registration as motor vehicles under s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle fuel or alternate fuels used for snowmobiles and that the estimated snowmobile motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for all-terrain vehicles or utility terrain vehicles unless the vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate that estimated all-terrain vehicle or utility terrain vehicle motor vehicle fuel or alternate fuels tax payments are used for all-terrain vehicle trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate

1 fuels used for off-highway motorcycles unless the off-highway motorcycle is
2 registered for private use under s. 23.335 (3) (a) and shall indicate that estimated
3 off-highway motorcycle fuel or alternate fuels tax payments are used for
4 off-highway motorcycle trails and areas. The forms shall also indicate that refunds
5 are not available for the tax on less than 100 gallons. The department shall
6 distribute forms in sufficient quantities to each county clerk.

7 **SECTION 90.** 100.48 (1) (bg) of the statutes is created to read:

8 100.48 (1) (bg) "Off-highway motorcycle" has the meaning given in s. 23.335
9 (1) ^(p) ~~(m)~~. *Off-highway*

10 **SECTION 91.** 100.48 (1) (br) of the statutes is created to read:

11 100.48 (1) (br) "~~Recreational~~ vehicle" means a snowmobile, an all-terrain
12 vehicle, a utility terrain vehicle, or an off-highway motorcycle.

13 **SECTION 92.** 100.48 (2) of the statutes is amended to read:

14 100.48 (2) No person may, either personally or through an agent, remove,
15 replace, disconnect, reset, tamper with, alter, or fail to connect, an hour meter
16 attached to farm equipment, ~~a snowmobile, an all-terrain vehicle, a utility terrain~~
17 ~~recreational~~ ^{an off-highway} vehicle, or a boat with the intent to defraud by changing or affecting the
18 number of hours of operation indicated on the hour meter.

19 **SECTION 93.** 100.48 (3) (a) of the statutes is amended to read:

20 100.48 (3) (a) Nothing in this section shall prevent the service, repair or
21 replacement of an hour meter if the number of hours of operation indicated on the
22 hour meter remains the same as before the service, repair or replacement. If an hour
23 meter attached to farm equipment, ~~a snowmobile, an all-terrain vehicle, a utility~~
24 ~~terrain recreational~~ ^{an off-highway} vehicle, or a boat is incapable of registering the same number
25 of hours of operation as before its service, repair or replacement, the hour meter shall

1 be adjusted to read zero, and a sticker shall be affixed by the owner of the vehicle or
2 device to which the hour meter is attached or an agent, in proximity to the hour
3 meter, specifying the number of hours of operation recorded on the hour meter prior
4 to its service, repair or replacement and the date on which it was serviced, repaired
5 or replaced. No person who services, repairs or replaces an hour meter attached to
6 farm equipment, ~~a snowmobile, an all-terrain vehicle, a utility terrain~~ ^{an off-highway} ~~recreational~~
7 vehicle, or a boat that is incapable of registering the same number of hours of
8 operation as before such service, repair or replacement may fail to adjust the hour
9 meter to read zero or fail to affix the sticker required by this paragraph.

10 **SECTION 94.** 100.48 (4) (c) of the statutes is amended to read:

11 100.48 (4) (c) Any person who violates sub. (2) or (3) with respect to an hour
12 meter attached to ~~a snowmobile, an all-terrain vehicle, a utility terrain vehicle,~~
13 ~~recreational vehicle~~ ^{an off-highway} or a boat may be fined not more than \$5,000 or imprisoned for
14 not more than one year in the county jail, or both, for each violation.

15 **SECTION 95.** 110.07 (1) (a) 1. of the statutes is amended to read:

16 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and
17 chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.335, 125.07 (4) (b), 125.085 (3)
18 (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or
19 orders or rules issued pursuant thereto.

20 **SECTION 96.** 110.07 (3) of the statutes is amended to read:

21 110.07 (3) The secretary may employ inspectors who may not wear the uniform
22 of the state patrol, whose duties shall be to enforce and assist in administering s. ss.
23 23.33, 23.335, and 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351, s.
24 23.33, the inspection requirements of s. 121.555 (2) (b) and the requirements under
25 s. 346.45 (4) for vehicles being used to transport hazardous materials. Such

inspectors, in the performance of these duties, shall have the powers and authority of state traffic officers. For the purpose of death, disability and retirement coverage, such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub. (5), the secretary may clothe and equip inspectors as the interest of public safety and their duties require.

SECTION 97. 322.111 of the statutes is amended to read:

322.111 Article 111 — Drunken or reckless operation of an all-terrain vehicle, utility terrain vehicle, vehicle, snowmobile, aircraft, or vessel
certain vehicles, snowmobiles, vessels, and aircraft. Any person who violates s. 23.33 (3) (a) or (4c), ~~30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25, or 940.09~~ where the offense involved the operation or physical control of an aircraft, ~~all-terrain vehicle, utility terrain vehicle, snowmobile, vehicle or vessel~~ a vehicle, including an all-terrain vehicle, utility terrain vehicle, or snowmobile; a vessel; or an aircraft on or off a highway shall be punished as the court-martial may direct.

off-highway motorcycle

SECTION 98. 341.05 of the statutes is amended to read:

341.05 All-terrain vehicles and utility terrain vehicles, and off-highway motorcycles. All-terrain vehicles and utility terrain vehicles are not required to be registered under this chapter but shall be registered under s. 23.33 (2) or (2g). ~~All motorcycles that are only being operated in accordance with s. 23.335 are not required to be registered under this chapter but shall be registered as required under s. 23.335 (2).~~

*** NOTE: MGG check reference. SECTION 99. 343.05 (4) (b) 1m. of the statutes is created to read:

343.05 (4) (b) 1m. A person while operating a limited use off-highway motorcycle, as defined in s. 23.335 (1) *(m)*.

off the highway

← INSERT 59-15

PLAIN

(no score)

PLAIN

1 SECTION 100. 344.61 (1) of the statutes is amended to read:

2 344.61 (1) Notwithstanding s. 344.01 (2) (b), "motor vehicle" does not include
3 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, or limited use
4 off-highway motorcycles ^g as defined in s. 23.335 (1) (p).

5 SECTION 101. 345.11 (1r) of the statutes is amended to read:

6 345.11 (1r) The uniform traffic citation or the citation form under s. 23.54 shall
7 be used for violations of s. 23.33 ^{plain} ~~relating to~~ ^{or} ~~23.335 that relate~~ ^{relating to} to highway use or
8 ordinances enacted in accordance with that section if the violation is committed on
9 a highway, but no points may be assessed against the driving record of the operator
10 of an all-terrain vehicle ~~or~~ utility terrain vehicle, or a limited use off-highway
11 motorcycle, as defined in s. 23.335 (1) ⁽ⁿ⁾ (p). When the uniform traffic citation is used,
12 the report of conviction shall be forwarded to the department. When the citation
13 form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

14 SECTION 102. 346.66 (1) (c) of the statutes is amended to read:

15 346.66 (1) (c) Sections 346.67 to 346.70 do not apply to accidents involving only
16 snowmobiles, all-terrain vehicles, utility terrain vehicles, limited use off-highway
17 motorcycles, as defined in s. 23.335 (1) ⁽ⁿ⁾ (p), that were being operated in accordance
18 ~~with s. 23.335,~~ or vehicles propelled by human power or drawn by animals.

19 SECTION 103. 346.71 (1) of the statutes is amended to read:

20 346.71 (1) Every coroner or medical examiner shall, on or before the 10th day
21 of each month, report in writing any accident involving a motor vehicle occurring
22 within the coroner's or medical examiner's jurisdiction resulting in the death of any
23 person during the preceding calendar month. If the accident involved an all-terrain
24 vehicle or utility terrain vehicle, the report shall be made to the department of
25 natural resources and shall include the information specified by that department.

operated off the highway
limited use ✓ (P1)
1 If the accident involved an off-highway motorcycle, as defined in s. 23.335 (1), the
2 report shall be made to the department of natural resources and the department of
3 transportation and shall include the information specified by each department. If
4 the accident involved any other motor vehicle, the report shall be made to the
5 department of transportation and shall include the information specified by the that
6 department. The coroner or medical examiner of the county where the death occurs,
7 if the accident occurred in another jurisdiction, shall, immediately upon learning of
8 the death, report it to the coroner or medical examiner of the county where the
9 accident occurred, as provided in s. 979.01 (1).

10 **SECTION 104.** 346.71 (2) of the statutes is amended to read:

11 346.71 (2) In cases of death involving a motor vehicle in which the decedent was
12 the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or
13 electric personal assistive mobility device operator 14 years of age or older and who
14 died within 6 hours of the time of the accident, the coroner or medical examiner of
15 the county where the death occurred shall require that a blood specimen of at least
16 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her
17 death, by the coroner or medical examiner or by a physician so designated by the
18 coroner or medical examiner or by a qualified person at the direction of the physician.
19 All funeral directors shall obtain a release from the coroner or medical examiner of
20 the county where the accident occurred as provided in s. 979.01 (4) prior to
21 proceeding with embalming any body coming under the scope of this section. The
22 blood so drawn shall be forwarded to a laboratory approved by the department of
23 health services for analysis of the alcoholic content of the blood specimen. The
24 coroner or medical examiner causing the blood to be withdrawn shall be notified of
25 the results of each analysis made and shall forward the results of each such analysis

off the highway SECTION 104

1 to the department of health services. If the death involved a motor vehicle, the
2 department shall keep a record of all such examinations to be used for statistical
3 purposes only and the department shall disseminate and make public the
4 cumulative results of the examinations without identifying the individuals involved.
5 If the death involved an all-terrain vehicle ~~or~~ utility terrain vehicle, or an
6 off-highway motorcycle that was being operated in accordance with s. 23.335, the
7 department of natural resources shall keep a record of all such examinations to be
8 used for statistical purposes only and the department of natural resources shall
9 disseminate and make public the cumulative results of the examinations without
10 identifying the individuals involved.

11 SECTION 105. 346.94 (1) of the statutes is amended to read:

12 346.94 (1) DRIVING ON SIDEWALK. Except as authorized in s. 23.33 (4) (f) or when
13 the sidewalk is an all-terrain vehicle route, as defined in s. 23.33 (1) (c) or an
14 off-highway motorcycle route, as defined in s. 23.335 (1) (u), the operator of a vehicle
15 shall may not drive upon any sidewalk area except at a permanent or temporarily
16 established driveway unless permitted to do so by the local authorities.

17 SECTION 106. 350.12 (3) (a) 1. of the statutes is amended to read:

18 350.12 (3) (a) 1. Except as provided under subs. (2) and (5) (cm), no person may
19 operate and no owner may give permission for the operation of any snowmobile
20 within this state unless the snowmobile is registered for public use or private use
21 under this paragraph or s. 350.122 or as an antique under par. (b) and has the
22 registration decals displayed as required under sub. (5) or s. 350.122 or unless the
23 snowmobile has a reflectorized plate attached as required under par. (c) 3. A
24 snowmobile that is not registered as an antique under par. (b) may be registered for
25 public use. A snowmobile that is not registered as an antique under par. (b) and that

← INSERT 62-16

is ~~used exclusively on private property, as defined under s. 23.33 (1) (n), exclusively~~
operated by the snowmobile owner or a member of his or her immediate family on
land that is owned or leased by the snowmobile owner or his or her immediate family
may be registered for private use. A snowmobile public-use registration certificate
is valid for 2 years beginning on the July 1 prior to the date of application if
registration is made prior to April 1 and beginning on the July 1 subsequent to the
date of application if registration is made after April 1 and ending on June 30, 2 years
thereafter. A snowmobile private-use registration certificate is valid from the date
of issuance until ownership of the snowmobile is transferred. The fee for the issuance
or renewal of a public-use registration certificate is \$30, except that the fee is \$5 if
it is a snowmobile owned and operated by a political subdivision of this state. There
is no fee for the issuance of a private-use registration certificate or for the issuance
of a registration certificate to the state.

SECTION 107. 800.02 (2) (b) of the statutes is amended to read:

800.02 (2) (b) Except for parking violations, in traffic regulation actions in
municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu
of the citation form specified in par. (ag). In actions for violations of local ordinances
enacted in accordance with s. 23.33 (11) (am), 23.335 (19)(a), or 30.77, the citation
form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

SECTION 108. 814.63 (3m) (a) of the statutes is amended to read:

814.63 (3m) (a) Except as provided in par. (d), if a defendant is required to
appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the
court shall impose and collect from the defendant any costs charged to or paid by a
law enforcement agency for the withdrawal of the defendant's blood if the court finds

1 that the defendant violated s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 346.63, or
2 350.101, or a local ordinance in conformity therewith.

3 **SECTION 109.** 814.65 (4m) (a) of the statutes is amended to read:

4 814.65 (4m) (a) Except as provided in par. (d), if a defendant is required to
5 appear in municipal court, in addition to any forfeiture, costs, fees, or surcharges it
6 imposes, the municipal court shall impose and collect from the defendant any costs
7 charged to or paid by a law enforcement agency for the withdrawal of the defendant's
8 blood if the court finds that the defendant violated a local ordinance in conformity
9 with s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 346.63, or 350.101.

10 **SECTION 110.** 885.235 (1m) of the statutes is amended to read:

11 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681
12 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the
13 person's blood at the time in question, as shown by chemical analysis of a sample of
14 the person's blood or urine or evidence of the amount of alcohol in the person's breath,
15 is admissible on the issue of whether he or she had an alcohol concentration in the
16 range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m),
17 or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the
18 sample was taken within 3 hours after the event to be proved. The fact that the
19 analysis shows that the person had an alcohol concentration of more than 0.0 but not
20 more than 0.08 is prima facie evidence that the person had an alcohol concentration
21 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63
22 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

23 **SECTION 111.** 885.235 (4) of the statutes is amended to read:

24 885.235 (4) The provisions of this section relating to the admissibility of
25 chemical tests for alcohol concentration or intoxication or for determining whether

1 a person had a detectable amount of a restricted controlled substance in his or her
2 blood shall not be construed as limiting the introduction of any other competent
3 evidence bearing on the question of whether or not a person was under the influence
4 of an intoxicant, had a detectable amount of a restricted controlled substance in his
5 or her blood, had a specified alcohol concentration, or had an alcohol concentration
6 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63
7 (2m), or 350.101 (1) (c).

← INSERT 65-7

8 **SECTION 112.** 895.049 of the statutes is amended to read:

9 **895.049 Recovery by a person who fails to use protective headgear**
10 **while operating certain motor vehicles.** Notwithstanding s. 895.045, failure by
11 a person who operates or is a passenger on a utility terrain vehicle, as defined in s.
12 23.33 (1) (ng), a motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as
13 defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a
14 highway, to use protective headgear shall not reduce recovery for injuries or damages
15 by the person or the person's legal representative in any civil action. This section
16 does not apply to any person required to wear protective headgear under s. 23.33 (3g),
17 23.335 (8) (a), or 347.485 (1).

18 **SECTION 113.** 901.053 of the statutes is amended to read:

19 **901.053 Admissibility of evidence relating to use of protective**
20 **headgear while operating certain motor vehicles.** Evidence of use or nonuse
21 of protective headgear by a person, other than a person required to wear protective
22 headgear under s. 23.33 (3g), 23.335 (8) (a), or 347.485 (1), who operates or is a
23 passenger on a utility terrain vehicle, as defined in s. 23.33 (1) (ng), a motorcycle, as
24 defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01 (2g), or a
25 snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not admissible in any

1 civil action for personal injury or property damage. This section does not apply to
2 the introduction of such evidence in a civil action against the manufacturer or
3 producer of the protective headgear arising out of any alleged deficiency or defect in
4 the design or manufacture of the protective headgear or, with respect to such use of
5 protective headgear, in a civil action on the sole issue of whether the protective
6 headgear contributed to the personal injury or property damage incurred by another
7 person.

8 **SECTION 114.** 938.17 (1) (intro.) of the statutes is amended to read:

9 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE, ALL-TERRAIN VEHICLE, ~~AND~~ UTILITY
10 TERRAIN VEHICLE, AND LIMITED OFF-HIGHWAY MOTORCYCLE VIOLATIONS. (intro.) Except
11 for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67
12 (1) when death or injury occurs, courts of criminal and civil jurisdiction have
13 exclusive jurisdiction in proceedings against juveniles 16 years of age or older for
14 violations of ^{ss.} ~~s.~~ 23.33, ^{and} 23.335, ^{plus} of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic
15 regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in
16 s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, all-terrain
17 vehicle, ~~or~~ utility terrain vehicle, or limited off-highway motorcycle offense in a court
18 of criminal or civil jurisdiction shall be treated as an adult before the trial of the
19 proceeding except that the juvenile may be held in secure custody only in a juvenile
20 detention facility. A juvenile convicted of a traffic, boating, snowmobile, all-terrain
21 vehicle, ~~or~~ utility terrain vehicle, or limited off-highway motorcycle offense in a court
22 of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes
23 except as follows:

24 ~~**SECTION 115.** 938.343 (9) of the statutes is amended to read:~~

1 938.343 (9) ~~ALL TERRAIN OR UTILITY TERRAIN~~ OFF-HIGHWAY VEHICLE SAFETY
2 COURSE PROGRAM REQUIREMENT. If the violation is one under s. 23.33 or 23.335 or under
3 an ordinance enacted in accordance with s. 23.33 or 23.335 concerning the use of
4 ~~all-terrain vehicles or utility terrain vehicles~~ an off-highway vehicle, as defined in
5 s. 23.336 (1) (a), order the juvenile to attend an all-terrain vehicle or utility terrain
6 vehicle safety course a safety certification program as specified under s. 23.336 (2)

7 **SECTION 116.** 940.09 (1m) (b) of the statutes is amended to read:

8 940.09 (1m) (b) If a person is charged in an information with any of the
9 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
10 971.12. If the person is found guilty of more than one of the crimes so charged for
11 acts arising out of the same incident or occurrence, there shall be a single conviction
12 for purposes of sentencing and for purposes of counting convictions under s. 23.33
13 (13) (b) 2. and 3., under s. 23.335 (2)(c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
14 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm),
15 (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not
16 require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for
17 conviction which the others do not require.

18 **SECTION 117.** 940.09 (3) of the statutes is amended to read:

19 940.09 (3) An officer who makes an arrest for a violation of this section shall
20 make a report as required under s. 23.33 (4t), 23.335 (11) (j), 30.686, 346.635 or
21 350.106.

22 **SECTION 118.** 940.25 (1m) (b) of the statutes is amended to read:

23 940.25 (1m) (b) If a person is charged in an information with any of the
24 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
25 971.12. If the person is found guilty of more than one of the crimes so charged for

1 acts arising out of the same incident or occurrence, there shall be a single conviction
2 for purposes of sentencing and for purposes of counting convictions under s. 23.33
3 (13) (b) 2. and 3., under s. 23.335 (21) (c) 2. and 3. ✓, under s. 30.80 (6) (a) 2. or 3., under
4 ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am),
5 (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the
6 others do not require.

7 **SECTION 119.** 940.25 (3) of the statutes is amended to read:

8 940.25 (3) An officer who makes an arrest for a violation of this section shall
9 make a report as required under s. 23.33 (4t), 23.335 (12) (j), 30.686, 346.635 or
10 350.106.

11 **SECTION 120.** 973.06 (1) (j) of the statutes is amended to read: or

12 973.06 (1) (j) If the defendant violated s. 23.33 (4c), 23.335 (12) (a) (b) or (h).
13 30.681, 346.63, 350.101, 940.09 (1), or 940.25, any costs charged to or paid by a law
14 enforcement agency for the withdrawal of the defendant's blood, except that the court
15 may not impose on the defendant any cost for an alternative test provided free of
16 charge as described in s. 343.305 (4). If at the time the court finds that the defendant
17 committed the violation, the law enforcement agency has not paid or been charged
18 with the costs of withdrawing the person's blood, the court shall impose and collect
19 the costs the law enforcement agency reasonably expects to be charged for the
20 withdrawal, based on the current charges for this procedure. Notwithstanding sub.
21 (2), the court may not remit these costs.

22 **SECTION 121.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

23 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.335 (12)
24 (a), (b), or (h), 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor
25 under s. 346.63 to which s. 973.09 (1) (d) applies.

1 **SECTION 122.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

2 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.335 (12)
3 (a), (b), or (h), 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor
4 under s. 346.63 to which s. 973.09 (1) (d) applies.

5 **SECTION 123. Effective date.**

6 (1) This act takes effect on the first day of the 7th month beginning after
7 publication, or on the 2nd day after publication of the 2013-15 budget act, whichever
8 is later.

9 **(END)**